THE CHARTER OF THE MICHIGAN SOUTHERN & NORTHERN INDIANA RAIL ROAD COMPANY AND LAWS RELATING THERETO.

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THE CHARTER AND LAWS

OF THE STATES OF

OHIO, INDIANA, MICHIGAN

AND

ILLINOIS,

RELATING TO THE

Michigan Southern and Northern Indiana

RAIL-ROAD COMPANY.

New-York:
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CHARTER, LAWS, &c.

AN ACT

REGULATING RAIL-ROAD COMPANIES.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever any number of persons, not less than five, shall be named as corporators in any act of the General Assembly, and authorized to construct a rail-road, they and their associates, successors and assigns, by the name and style provided in said act, shall thereafter be deemed a body corporate, with succession, with power to sue and be sued, plead and be impleaded, defend and be defended, contract and be contracted with, acquire and convey at pleasure, all such real and personal estate as may be necessary and convenient to carry into effect the objects of the incorporation, to make and use a common seal, and the same to alter, break and renew at pleasure, and do all needful acts to carry into effect the object for which it was created; and such company shall possess all the powers, and be subject to all the rules and restrictions provided by this act, except so far as may be modified by the special act incorporating the same.

SEC. 2. Said corporation shall be authorized to construct and maintain a rail-road, with a single or double track, with such side tracks, turn-outs, offices and depots, as they may deem necessary between the points named

in the special act incorporating the same, commencing at or within, and extending to or into any town, city or village named as the place of beginning, or terminus of such road, and construct branches from the main lines to other towns or places within the limits of any county through which said road may pass.

Sec. 3. The capital stock of such company shall be divided into shares of fifty dollars each, and consist of such sum as may be provided in the special act incorporating the same; such shares shall be regarded as personal property, and shall be subject to execution at law.

Sec. 4. An instalment of five dollars on each share of stock shall be payable at the time of making the subscription, and the residue thereof shall be paid in such instalments, and at such times and places, and to such persons as may be required by the directors of said company.

Sec. 5. If any instalment of stock shall remain unpaid for sixty days after the time it may be required, whether such stock is held by an assignee, transferree or the original subscriber, the same may be collected by an action of debt, with a penalty of five per centum thereon, or the directors may sell the stock so unpaid at public auction, for the instalment, interest and penalty then due thereon—first giving thirty days' public notice of the time and place of sale, in some newspaper in general circulation in the county where such delinquent stockholder resided at the time of making such subscription, or becoming such assignee or transferree, or of his actual residence at the time of said sale; or, if such stockholder reside out of the state, such publication shall be made in the county where the principal office of the company is located; and if any residue of money shall remain, after paying the amount due on said stock, the same shall, on demand, be paid over to the owner; if the whole of said instalment be not paid by such sale,

the remainder shall be recoverable by an action of debt against the subscriber, assignee or transferree.

Sec. 6. That whenever any rail-road company heretofore incorporated, or created and incorporated under the provisions of this act, shall, in the opinion of the directors thereof, require an increased amount of capital stock, they shall, if authorized by the holders of a majority of the stock, file with the auditor of state a certificate, setting forth the amount of such desired increase, which shall not exceed the amount of the original capital of said company, and thereafter such company shall be entitled to have such increased capital as is fixed by said certificate.

Sec. 7. That the persons named in any special act of incorporation, or any five of them, shall be authorized to order books to be opened for receiving subscriptions to the capital stock of said company, at such time or times, and at such place or places, as they may deem expedient, after having given at least twenty days' notice in a newspaper published or generally circulated in one or more counties where books of subscription are to be opened, of the time and place of opening books; and so soon as fifty thousand dollars, or ten per centum on the capital stock shall be subscribed, they may give like notice for a meeting of the stockholders, to meet at such time and place as they may designate, for the purpose of choosing directors, who shall continue in office until the time fixed for the annual election, and until their successors are chosen or qualified; at the time and place appointed, seven directors shall be chosen by ballot, by such of the stockholders as shall attend for that purpose, either in person or by lawful proxies; each share shall entitle the owner to one vote, and a plurality of votes shall be necessary for a choice; but after the first election of directors, no person shall vote on any share on which any instalment is due and unpaid. The persons named in such special act, or such of them as may be present, shall be inspectors of such election, and

shall certify what persons are elected directors, and appoint the time and place for holding their first meeting; a majority of said directors shall form a board, and be competent to fill vacancies in their board, make by-laws, and transact all business of the corporation; a new election shall be annually held for directors, at such time and place as the stockholders, at their first meeting, shall determine, or as the by-laws of the corporation may require; and the directors chosen at any election shall, so soon thereafter as may be convenient, choose one of their number to be president, and shall appoint a secretary and treasurer of the corporation. The directors, before entering on their duties, shall each take an oath faithfully to discharge his duties, and they shall, from time to time, make such dividends of the profits of said company as they may think proper.

SEC. 8. If such rail-road company shall not be organized within three years from the passage of the special act incorporating the same, and not less than ten miles of such road be completed sufficiently for use within seven years from the same date, then the act creating the same shall be void.

SEC. 9. Such corporation is authorized to enter upon any land for the purpose of examining and surveying its rail-road line, and may appropriate so much thereof as may be deemed necessary for its rail-road, including necessary side tracks, depots, workshops and water stations, materials for construction, except timber, a right of way over adjacent lands, sufficient to enable such company to construct and repair its road, and a right to conduct water by aqueducts, and the right of making proper drains. The corporation shall forthwith deposit with the clerk of the Court of Common Pleas, or other court of record, of the county where the land lies, a description of the rights and interests intended to be appropriated, and such lands, rights and interests shall belong to said company to use for the purpose specified, on making payment or giving security, as is hereafter provided. The corporation may,

by its directors, purchase any such lands, materials, right of way or interest, of the owners of such land; or, in case the same is owned by a person insane, or an infant, at a price to be agreed upon by the regularly constituted guardian or parent of such insane person or infant, if the same shall be approved by the court in which the description aforesaid shall be filed; and, on such agreement and approval, the owner, guardian or parent, as the case may be, shall convey the said premises so purchased, in fee simple or otherwise, as the parties may agree, to such rail-road company, and the deed, when made, shall be deemed valid in law. If the corporation shall not agree with the owner of the land, or with his guardian, if the owner is incapable of contracting, touching the damages sustained by such appropriation, such corporation shall deliver to such owner or guardian, if within the county, a copy of such instrument of appropriation. If the owner, or his guardian, in case such owner is incapable of contracting, be unknown, or do not reside within the county, such corporation shall publish in some newspaper of general circulation in the county, for the term of three weeks, an advertisement reciting the substance of such instrument of appropriation; upon filing such act of appropriation, and delivery of such copy, or making such publication, the Court of Common Pleas or other court of record of the county where the land lies, or any judge thereof in vacation, upon application of either party, shall appoint, by warrant, three disinterested freeholders of such county, to appraise the damages which the owner of the land may sustain by such appropriation; such appraisers shall be duly sworn; they shall consider the benefit as well as injury which such owner shall sustain by reason of such rail-road, and shall, forthwith, return their assessment of damages to the clerk of said court, setting forth the value of the property taken, or damage done to the property; the amount of benefit conferred, and the difference between the value of or damage done to the property taken, which they assess to such owner or owners

separately, to be by him filed and recorded; and thereupon, such corporation shall pay to said clerk the amount thus assessed, or secure the payment to the satisfaction of such court, or of the judge issuing the warrant. And on making payment or tender thereof to said clerk, or on giving such security as may be required, it shall be lawful for such corporation to hold the interests in such lands or materials thus appropriated, and the privilege of using any materials on said roadway within fifty feet on each side of the centre of such roadway, for the uses aforesaid, the costs of such award shall be paid by such company; and, on motion, by any party interested, and showing said proceedings, the court may order payment thereof, and enforce such payment by execution. The award of said arbitrators may be reviewed by the Court of Common Pleas, or other court in which proceedings may be had, on written exception filed by either party in the clerk's office, within ten days after the filing of such award; and the court shall take such order therein as right and justice may require, by ordering a new appraisement, on good cause shown: *Provided*, That notwithstanding such appeal, said company may take possession of the property described as aforesaid, and the subsequent proceedings on the appeal shall only affect the amount of compensation to be allowed; if prior to the assessment, the corporation shall tender to such owner, or his guardian, if he be unable to contract, an amount equal to the award afterwards made, exclusive of costs, the costs of arbitration shall be paid equally by such company, and such owner or guardian.

Sec. 10. That whenever any rail-road company, heretofore incorporated, or which may be hereafter incorporated, shall find it necessary, for the purpose of avoiding annoyance to public travel, or dangerous or difficult curves or grades, or unsafe or unsubstantial grounds or foundations, or for other reasonable causes, to change the location or grade of any portions of their road, whether heretofore made or hereafter to be made, such rail-road

companies shall be, and are hereby authorized to make such changes of grade and location, not departing from the points and general route prescribed in the charter of such company; and for the purpose of making any such change in the location and grade of any such road as aforesaid, such company shall have all the rights, powers and privileges to enter upon, and take, and appropriate such lands, and make surveys necessary to effect such changes and grades, upon the same terms, and be subject to the same obligations, rules and regulations as are prescribed in the ninth section of this act, and shall also be liable in damages, when any have been caused by such change, to the owner or owners of the lands upon which such road was theretofore located, to be ascertained and reserved as aforesaid; but no damages shall be allowed unless claimed within thirty days after actual notice of such intended change shall be given to such owner or owners, if residing on the premises, or notice by publication in some newspaper in general circulation in the county, if non-resident: *Provided, however*, That no such change of location of the road be made, unless approved by the board of public works; and to enable the board of public works to act understandingly upon all such subjects, the said board of public works be, and is hereby directed to appoint, on the application of any rail-road company desiring such change, a competent engineer of the rail-road to examine the proposed new route, and report the facts to the board of public works: *Provided*, That nothing contained in this act shall be so construed as to give to the Little Miami Rail-Road Company any power to relocate said rail-road south of its present location, within the corporate limits of the town of Fulton, in Hamilton county, unless such change shall be approved by the board of public works.

Sec. 11. If it shall be necessary, in the location of any part of any rail-road, to occupy any road, street, alley or public way, or ground of any kind, or any part thereof, it shall be competent for the municipal or other corporation,

or public officers, or public authorities, owning or having charge thereof, and the rail-road company, to agree upon the manner and upon the terms and conditions upon which the same may be used or occupied; and if said parties shall be unable to agree thereon, and it shall be necessary, in the judgment of the directors of such rail-road company, to use or occupy such road, street, alley or other public way or ground, such company may apply to the Court of Common Pleas of the county in which the same is situate, setting forth the aforesaid facts; and said court shall thereupon appoint at least three judicious, disinterested freeholders of the county, who shall proceed to determine whether such occupation is necessary, and if necessary, the manner and terms upon which the same shall be used, and make return of their doings in the premises to said court, who shall, if they deem the same just and proper, make the necessary order to carry the same into effect, or they may order a review of the same, as such court may consider justice and the public interest require.

Sec. 12. Such corporation may demand and receive, for the transportation of passengers on said road, not exceeding three and one-half cents per mile, and for the transportation of property not exceeding five cents per ton per mile, when the same are transported a distance of thirty miles or more; and in case the same are transported for a less distance than thirty miles, such reasonable rate as may be from time to time fixed by said company; at any time after the expiration of ten years from the time any such road may be put in operation, it shall be lawful for the general assembly to prescribe the rates to be charged for the transportation of persons or property upon said road, should they be deemed too high, and may exercise the same power ten years thereafter: *Provided*, That no reduction shall be made unless the net profits of the company, on an average for the previous ten years, shall amount to a sum equal to ten per centum per annum

upon its capital, and then not so as to reduce the future probable profits below the said per centum.

Sec. 13. Such company shall have power to borrow money on the credit of the corporation, not exceeding its authorized capital stock, at a rate of interest not exceeding seven per cent. per annum, and may execute bonds or promissory notes therefor, and to secure the payment thereof, may pledge the property and income of such company: *Provided*, That the value and security of any liens, mortgage, or the stock held in or against such company by the state or the city of Cincinnati, shall not thereby be injured or otherwise impaired.

Sec. 14. Such company may acquire, by purchase or gift, any lands in the vicinity of said road, or through which the same may pass, so far as may be deemed convenient or necessary by said company to secure the right of way, or such as may be granted to aid in the construction of such road, or be given by way of subscription to the capital stock, and the same to hold or convey in such manner as the directors may prescribe; and all deeds and conveyances made by such company shall be signed by the president, under the seal of the corporation; and any existing rail-road corporation may accept the provisions of this section, the five preceding sections of this act, or either of them, and after such acceptance, all conflicting provisions of their respective charters shall be null and void.

Sec. 15. It shall be lawful for such corporation, whenever it may be necessary in the construction of such road, to cross any road or stream of water, or to divert the same from its present location or bed; but said corporation shall, without unnecessary delay, place such road or stream in such condition as not to impair its former usefulness.

Sec. 16. Such corporation shall, as soon as convenient after its organization, establish a principal office at some point on the line of its road, and change the same at pleasure, giving public notice in some newspaper of such

establishment or change; and all process against said company shall be served on the president or secretary, or by leaving a copy at the principal office of the corporation.

Sec. 17. The right is hereby reserved to the general assembly to provide for taxing such companies by any other mode than that now authorized by the provisions of the act levying taxes on all property of the state, according to its true value; but not so as to require any such company, or the stockholders thereof, on account of the stock owned by them, to pay any greater rate of taxes for the time being than the general average of taxation for all purposes on other property of equal value in those counties through which such road may pass, or within the limits of which the same may be located; and any existing rail-road company may accept the provisions of this section, and thereafter be liable to taxation, as provided by the act levying taxes aforesaid, subject to the right of the general assembly, herein reserved: *And provided, also*, That any existing rail-road company accepting any of the provisions of this act, shall thereafter be subject to the taxation herein provided, subject to the right herein reserved.

Sec. 18. Every company organized under this act shall be required to erect at all points where their road shall cross any public road, at a sufficient elevation from such public road, to admit of the free passage of vehicles of every kind, a sign with large and distinct letters placed thereon, to give notice of the proximity of the rail-road, and warn persons of the necessity of looking out for the cars; and any company neglecting or refusing to erect such sign, shall be liable in damages for all injuries occurring to persons or property from such neglect or refusal.

Sec. 19. That if at any time any dispute shall arise between any company incorporated under this act and the post-master general, as to the price of transporting the mails, the governor shall have power to adjust the same

by arbitration; but nothing contained herein shall be so construed as to interfere with the right of such company to fix the times of arrival and departure of their trains, or to change any general regulations of the company.

SEC. 20. That each and every rail-road company incorporated under this act shall, annually, in the month of January, make a full report of the condition of its affairs to the auditor of state, showing the amount of the capital stock of such company, the gross amount of tolls or receipts during the previous year, the cost of repairs and incidental expenses, the net amount of profits and the dividends made, with such other facts as may be necessary to a full statement of the affairs and condition of such road; and the auditor shall, annually, present an abstract copy of such report to the general assembly.

SEC. 21. The width of the track or gauge of all roads under this act shall be four feet ten inches between the rails.

SEC. 22. It shall be lawful for the directors of any rail-road company, semi-annually, to compute, allow and pay to its stockholders, interest at the rate of six per centum on all moneys theretofore paid as capital stock, to be set apart and paid in stock or cash, as the directors may determine: *Provided*, That they shall not allow or pay any interest in cash to stockholders, while any debt of such rail-road company for labor or materials shall be due and unpaid: *And provided further*, That the capital stock shall, in no case, be reduced by such payment of interest; and any rail-road company may establish a principal office in the manner and for the purpose named in the sixteenth section of this act.

JOSEPH S. HAWKINS,
Speaker of the House of Representatives.

CHARLES B. GODDARD,
Speaker of the Senate.

February 11, 1848.

AN ACT

AUTHORIZING RAIL-ROAD COMPANIES TO OPEN TRANSFER BOOKS IN OTHER STATES.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the directors of any rail-road company incorporated by the general assembly of the state of Ohio, whenever they shall deem it expedient for the interest or convenience of such rail-road company, may and they are hereby authorized to open transfer books in any of the states of the United States, for the purpose of transferring stock which may be purchased or held by persons out of this state, and they are hereby authorized to employ suitable agents or agent to keep such transfer books, whose acts, done under the authority of this act, shall be binding on the said rail-road company.

BENJAMIN F. LEITER,
Speaker of the House of Representatives.

CHARLES C. CONVERS,
Speaker of the Senate.

March 21, 1850.

The present constitution of the state of Ohio took effect on the first day of September, 1851, and contains the following provisions :

ART. I. SEC. 19. Private property shall ever be held inviolate, but subservient to the public welfare. When taken in time of war, or other public exigency, imperatively requiring its immediate seizure, or for the purpose of making or repairing roads, which shall be open to the public without charge, a compensation shall be made to

the owner in money; and in all other cases, where private property shall be taken for public use, a compensation therefor shall first be made in money, or first secured by a deposit of money; and such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner.

ART. XIII. SEC. 5. No right of way shall be appropriated to the use of any corporation, until full compensation therefor be first made in money, or first secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury of twelve men in a court of record, as shall be prescribed by law.

AN ACT

TO INCORPORATE THE NORTHERN INDIANA RAIL-ROAD COMPANY.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That John Fitch, Dennison Steele, John H. Whitaker, Edward Haskell, Thomas S. Stanfield, John B. Jervis, Elisha C. Litchfield, Charles Butler, John Stryker, William C. Hannah and Edwin C. Litchfield, and their associates, successors and assigns, be and they are hereby created a body corporate and politic, by the name and style of "The Northern Indiana Rail-Road Company," with perpetual succession, and by that name and style shall be entitled to have and enjoy, and are hereby invested with all the rights, privileges and franchises, and be subject to all the restrictions of the act, entitled "An act regulating Rail-Road Companies," passed February 11, 1848, and the acts amendatory thereto, except so far as the same may be modified by this act.

SEC. 2. That the capital stock of said company shall consist of five hundred thousand dollars, in shares of one

hundred dollars each, with the privilege of increasing the same to any amount not exceeding one million of dollars, and shall have power to construct a rail-road from the city of Toledo, by the most direct and practicable route, to the state line of Indiana, in the county of Williams, and at such point as the Buffalo and Mississippi Rail-Road, of the state of Indiana, may connect therewith, or such other road as may be incorporated by said state, to connect with and to form a continuous line from the state line of Illinois, near Chicago, to Toledo, in this state, and also to construct a rail-road from the city of Toledo, northward, in the direction of Monroe, to connect with any rail-road running from the direction of Detroit to the city of Toledo.

Sec. 3. That the persons named in the first section of this act, or a majority of them, may meet at such place they may appoint, and proceed to open books for subscription to the capital stock of said company; and that so soon as fifty thousand dollars shall have been subscribed, the persons named in the first section above shall call a meeting of the stockholders for the election of directors of the said company; and that the stock which may be subscribed to said company shall be payable at such time and in such instalments as may be directed by the board of directors, and shall be transferable in such manner as they may direct.

Sec. 4. Said company shall have power to sell or negotiate the notes or bonds of the company, issued by such company, at such times and at such places, either within or without this state, and at such rate and for such prices as may be deemed best fitted to advance the interests of the company; and if such bonds or notes are thus sold at a discount, such sale shall be as valid, in every respect, as if they were sold at their par value.

Sec. 5. That said company shall be and is hereby authorized to connect, by contract, with any other rail-road company formed, or hereafter formed or incorporated, in the states of Indiana or Michigan, and consolidate its

capital stock, or any part thereof, with the capital stock of such company or companies, in the states of Indiana or Michigan; and to have and use the style and name of any such company, or of such other name as they may mutually agree upon, and shall constitute a part of said company thus consolidating; and in case of such consolidation, to have an uniform width of track with the rail-road thus connected with.

JOHN F. MORSE,
Speaker of the House of Representatives.

CHARLES C. CONVERS,
Speaker of the Senate.

March 3, 1851.

AN ACT

TO PROVIDE FOR COMPENSATION TO OWNERS OF PRIVATE PROPERTY APPROPRIATED TO THE USE OF CORPORATIONS.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That all appropriations of private property to the use of any and every corporation now existing, or that may hereafter be created in this state, which may be authorized by law to make such appropriation for the right of way, or for any other purpose which may be within the scope of the legal authority of such corporation, shall be made and conducted in accordance with the provisions of this act.

SEC. 2. Whenever any such corporation shall wish to make any such appropriation, and shall be unable to agree with the owner or owners of the property sought to be appropriated, or with his, her or their authorized agent or attorney, upon the compensation to be paid therefor, it shall be the duty of such corporation, by its proper officer, agent or attorney, to make out a statement, which shall

contain a specific description of each parcel of property and rights sought to be appropriated, within the county where such application shall be made, and which such corporation, at the time of filing such statement, seeks to appropriate, of the work, if any, intended to be constructed thereupon, the name or names of the owners of each parcel, if known, or if not, a statement of that fact; and such statement shall be forthwith filed with the probate judge of the proper county.

Sec. 3. That it shall be the duty of the probate judge, on receiving such notice, to immediately notify the clerk of the Court of Common Pleas and sheriff of the county, of the filing of such statement; and the said clerk and sheriff shall, within one day after receiving such notice, proceed to select from the names returned to serve as jurors, a jury of twelve men, in the same manner that jurors are selected for the trial of any cause in the Court of Common Pleas, for the purpose of estimating and valuing the amount of compensation each owner or owners shall receive or be entitled to, by reason of such appropriation; and the said clerk shall immediately return the names of the jurors so drawn to the probate judge, who shall thereupon issue his *venire facias* to the sheriff or other proper officer of the county, to summon such jurors so drawn as aforesaid, to attend on some day specified at the office of said judge, not exceeding five days from the issuing of said *venire*, then and there to be impanneled and sworn to render a just verdict, in the manner hereinafter described; and shall, at the time of issuing such *venire*, issue a notice to the several owners of property so sought to be appropriated, of the time when said jury will meet at the office of said judge, for the purposes aforesaid; which notice such sheriff or other officer shall serve upon the party therein named, at the time of serving such *venire*.

Sec. 4. It shall be the duty of the sheriff, or other proper officer receiving such *venire facias*, to summon the person therein named in the same manner that jurors

are summoned to attend the Court of Common Pleas; and if, by reason of non-attendance, challenge for cause, or for any other reason, such jury shall not be full, the sheriff shall fill the same with talesmen, as in like cases in the Court of Common Pleas; but no challenge, except for cause, shall be allowed to either party.

SEC. 5. When the panel is so filled, it shall be the duty of the probate judge to administer the following oath to the jury so impanneled, to wit: You and each of you do solemnly swear or affirm, that you will justly and impartially assess, according to your best judgment, the damages, in money, which (here name the owner or owners) will (each) sustain by reason of the appropriation of such property to the use of (here repeat the name of the corporation) in the proceedings now pending; and you do further swear or affirm, that you will truly, faithfully and impartially estimate and assess the amount of such compensation, irrespective of any benefit to him from any improvement proposed by said corporation; this you swear, as you shall answer to God, (or affirm,) under the pains and penalties of perjury. And the said probate judge, before administering such oath or affirmation, shall personally inquire of each juror whether he is interested in such corporation, either as owner, stockholder, agent or attorney, or in any other manner; and if any juror shall answer such question in the affirmative, such juror shall be excused from serving, and the panel shall be filled with talesmen by the sheriff, as in other cases.

SEC. 6. It shall be lawful for the said probate judge, upon motion of either party, to issue the following writ to the sheriff, or other proper officer, to wit: To the sheriff of ——— county: You are hereby commanded to conduct the twelve jurors named in the panel to this writ annexed, to view the property or premises sought to be appropriated by (here state the name of the corporation) and owned by (here state the name of the owner or owners) on ——— the ——— day of ———, then and there to view the premises or property aforesaid in the

presence of A. B. on the part of the corporation aforesaid, and C. D. on the part of the owner, (or owners,) appointed by this court; and you shall make return of the manner you have executed this writ, to this court, on the ——— day of ———, A. D. ———, and have you then there this writ. The aforesaid shall be signed by the probate judge, and certified under his seal of office, and he shall also deliver to the sheriff a copy of the statement, containing a separate description of each parcel of property and rights sought to be appropriated within the county; and he shall have the power to appoint the two persons therein named; and the sheriff, or other proper officer, who is to execute said writ, shall, by a special return upon the same, certify under his hand that the view has been made, according to the command thereof. The expenses of taking such view shall be taxed in the bill of costs, and no evidence shall be given on either side at the taking thereof: *Provided*, That witnesses may be examined before said jury, after their return to the court aforesaid, and the trial in each case shall be conducted thereafter in said probate court, in the same manner that the trial of civil cases is conducted in the Court of Common Pleas of the county in which said proceeding is had: *Provided*, That if more than three witnesses are examined by either party on the same point in the same case, the said probate judge shall have power to tax the fees and costs of such witnesses to the party calling the same.

Sec. 7. If the owner or owners, or his, her or their guardian, as the case may be, are unknown, or do not reside within the county where such property may be situated, such corporation, by its proper officer, authorized agent or attorney, shall make affidavit to that fact, and shall, nevertheless, file such statement as is required by the second section of this act, in the probate court, and shall also publish in some newspaper of general circulation in such county, for the term of four weeks, an advertisement containing a description of the property sought to be appro-

priated; and a notice that they have made application according to law, for such appropriation, specifying the day, which shall be within ten days from the expiration of said term of four weeks, in which a jury will be selected to assess the compensation to be paid therefor; and upon such a day a jury be impanneled and sworn by the probate judge, and the proceedings shall thereafter be conducted in accordance with the foregoing provisions of this act.

Sec. 8. The jurors summoned and serving in accordance with the provisions of this act, shall each receive one dollar per day for their services, and five cents per mile for every mile of the distance they may be compelled to travel in the discharge of their duties; the sheriff shall be entitled to such fees as he may be allowed by law for similar services in other cases, but he shall not be allowed anything in the way of poundage; the witnesses shall be allowed the same fees to which they would be entitled for attendance on the Court of Common Pleas; the probate judge shall be allowed to enter a charge of three dollars in the cost bill for his services, and no more; and the whole costs so taxed shall be paid by the corporation seeking to make such appropriation: *Provided*, That such corporation, by its proper officer, agent or attorney, may, at the time of filing the statement aforesaid, with the probate judge, deposit with said officer such an amount in money as they may deem a just and equitable compensation for the property and rights sought to be appropriated; and if the final verdict of the jury shall not exceed the amount so deposited, the whole costs of the proceedings shall be equally divided between the corporation and the owner of such property, in case of his refusal to accept the same.

Sec. 9. All the proceedings hereinbefore provided for in the probate court, shall be open to exceptions, in the same manner that exceptions are or may be taken in civil suits in the Court of Common Pleas, and either party may take the same up to the Court of Common Pleas of

the proper county, on a writ of *certiorari*, which shall be issued of course by the clerk thereof, upon the filing of a precipe, in which case such exceptions, signed and sealed by the probate judge, shall be taken and considered as a part of the record of such proceedings: *Provided*, That such writ of *certiorari* shall be issued within fifteen days from the rendition of the judgment in the probate court: *Provided*, That such corporation shall have the right, on the finding of the jury in the probate court, to pay into court the amount of compensation so found, and proceed to enter upon and appropriate such property, notwithstanding the cause may be removed to the Court of Common Pleas.

Sec. 10. If the Court of Common Pleas, upon the hearing of the cause, shall affirm the judgment of the probate court, all the costs in said Court of Common Pleas shall be paid by the party at whose instance the writ of *certiorari* shall have been issued; and if they shall reverse such judgment, they shall retain such cause for trial and final judgment in said Court of Common Pleas, as in other cases, which trial shall be had at the term of the reversal of such original judgment, unless for good cause shown by either party, the court shall grant a continuance of such cause; and on the trial of such cause in the Court of Common Pleas, the same oath or affirmation shall be administered to the jury as is provided for in the fifth section of this act.

Sec. 11. The jury shall render their verdict to the probate judge, who shall enter the same on his minutes; and unless for good reason shown, the court shall grant a new trial, the judge shall enter of record a confirmation of the verdict so rendered, and upon the payment of the amount for which the verdict is rendered, and such costs as may be assessed, the court shall render a judgment, to the effect, that the said corporation shall hold the property in the proceedings mentioned for the purposes for which the same was appropriated, and enter the same upon record; and thereupon such corporation shall hold

the same accordingly, and be entitled to execution to put them in possession thereof: *Provided*, That if, upon *certiorari*, or a new trial, there shall be a second assessment, which shall exceed in amount that first made, the corporation shall pay the excess to the owner of such property, and the probate judge receiving the amount so first decided to be due, shall retain the same in case a writ of *certiorari* shall issue, or a new trial be granted; and if the verdict of the second jury shall be less than that of the first, he shall repay to such corporation the difference upon the final disposition of the cause: *And provided further*, That in case a new trial shall be granted, at the instance of the owner or owners of the property, and the verdict of the second jury shall be the same as, or less in amount, than that first rendered, such owner shall pay the whole costs of the second proceedings; and if it shall be more than that first rendered, the costs of such second proceedings shall be paid by the corporation.

Sec. 12. The probate court shall have power to enforce the judgment rendered finally in such cause, by execution or otherwise.

James C. Johnson,
Speaker of the House of Representatives.

William Medill,
President of the Senate.

April 30, 1852.

AN ACT

TO INCORPORATE THE BUFFALO AND MISSISSIPPI RAIL-ROAD COMPANY.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That Gustavus A. Everts, Aaron Staunton and John B. Niles, of the county of Laporte; Lathrope M. Taylor, Samuel C. Sample and Horatio Chapin, of the county of St. Joseph; William Latta, Thomas Thomas, James R. M'Cord, John Voilet, Aaron M. Perine and John Rorrer, of the county of Elkhart; Ephraim Sealy, Luther Newton, Nehemiah Coldren and Robert Latta, of Lagrange county, and their successors in office, duly elected as hereinafter directed, are hereby appointed a body politic and corporate, and by the name and style of the "Buffalo and Mississippi Rail-Road Company," shall be able and capable, in law and equity, to sue and be sued, plead and be impleaded, defend and be defended, answer and be answered unto, in any and all courts of justice whatever; to make and use a common seal, and the same to alter, change or renew at pleasure; and shall be able and capable in law to make contracts, and enforce the same; to make and enforce the necessary by-laws, rules and regulations, to enable them to carry into effect the provisions of this act, and the objects contemplated by the same, not inconsistent with the laws and constitution of the state.

Incorporation.

Capital.

SEC. 2. The capital stock of said corporation shall be five hundred thousand dollars, divided into shares of one hundred dollars each.

Organization

SEC. 3. The directors named in this act, or a majority of them, may meet at such time and place as they may agree on, and organize said corporation, by electing one of their body president; and after such organization, any

three of the board shall be a quorum; but after an election for directors, it shall require five to form a quorum.

Powers.

SEC. 4. The corporation shall have power to appoint agents, clerks, treasurers, surveyors, engineers, superintendents, artists, and all other officers and persons necessary to carry into effect the objects of this act. They shall keep a journal of their proceedings, in which shall be entered the by-laws, rules and regulations, and all orders for the payment of such allowances as may be made to their officers and all others in their employ; which journal shall from time to time be read by the board, and if found correct, signed by the president. They may sit on their own adjournments, or on the call of the president; when the president is absent, they may appoint a president *pro tempore*. They shall fill all vacancies that may happen in their own body.

Subscriptions.

SEC. 5. The corporation shall cause books to be opened for subscription to the capital stock, at such time and at such place or places as they may choose—due notice of which shall be given—in each of which books the following entry shall be made:—"We, the undersigned, promise to pay the sum of one hundred dollars for each share of stock set opposite to our names, in such manner and proportions, and such time, as the president and directors of the Buffalo and Mississippi Rail-Road Company may direct. Witness our hands, this ——— day of ——— 183—."

Same.

SEC. 6. It shall be lawful for all persons of lawful age—for the agent of any corporate body—for the agent of any state or United States, on behalf of the same, to subscribe for any amount of capital stock, and the books shall be kept open for any such space of time, and a such place or places as the corporation shall choose, and may be re-opened at any time; and they may, by an agent, offer for sale in any other state any amount of stock, upon such terms and conditions as they may think advisable. They shall have power, on their own

credit, to borrow money on such terms as may be agreed on by the parties, and pledge the corporation and stock for the payment thereof. The said corporation may require such sum of money to be paid at the time of subscribing, not exceeding five dollars on each share, as they may think proper; but such requisition shall be made known by being inserted in the notice for opening the books, and any future payments on the stock shall be under the control of the corporation.

Choice of directors.

SEC. 7. As soon as five hundred shares are subscribed for and five dollars paid on each share, it shall be the duty of the corporation to give four weeks' notice in some newspaper printed in the vicinity of the contemplated route, and in such notice to appoint a time and place for the stockholders to meet and elect seven directors, who shall be stockholders and citizens of the state: (*Provided, however*, That if Ohio and Illinois states, by an act of their legislatures, grant an extension of this charter through their respective states, or either of them, to the head of the Maumee Bay and the Rapids of the Illinois, the citizen stockholders of the states of Ohio and Illinois shall be entitled to the like privileges and immunities of the citizen stockholders of Indiana:) which election of directors shall be holden within two months after the last share of five hundred shares shall have been subscribed for, and shall be conducted by two judges appointed by the stockholders present, and the persons having a plurality of the votes given and counted in public, shall be declared duly elected. No share shall confer a right to vote at any election, unless the same shall have been held one month previous to the election. In all elections, one share shall entitle the holder to one vote, and the votes may be given by the persons owning the same; or by one of any partnership; or by the husband, father, mother, administrator, executor, trustee or guardian; or by the authorized agent of any corporation, state or United States; or any person having a right to vote, may vote by proxy.

Proxies.

SEC. 8. It shall be the duty of the directors elected as above, and those elected at all subsequent elections, to meet as soon thereafter as they conveniently can, and elect one of their body to be president. The president and directors thus elected, shall continue in office until the next annual election, and until their successors are elected and organized. President.

SEC. 9. All elections after the first shall be held on the first Monday of October annually, under the direction of three stockholders not directors at the time, to be appointed by the board at a previous meeting, or by the stockholders present, of which election notices shall be given: *Provided*, If, from any cause whatever, there should be no election held on the day appointed by this act, or by the directors of the first election, it shall be lawful to hold the election on another day, to be designated by the directors. Annual elections.

SEC. 10. Certificates of stock shall be given to the stockholders, which shall be evidence of the stock held; they shall be signed by the president and countersigned by the clerk. The stock shall be transferable on the books of the corporation only, personally, or by an agent, attorney, or by the administrator, executor, trustee or guardian, but such stock shall at all times be holden by the corporation, or for any sum that may hereafter become due on contract made prior to such transfer. Stock.

SEC. 11. The corporation shall have power to call for such proportion of the stock subscribed, not exceeding fifteen per cent. of the amount of stock subscribed, every six months, as they may think proper, to be paid at such time and place as they may designate, by giving sixty days' notice in at least two weekly newspapers printed in the immediate neighborhood of the rail-road herein contemplated; or by giving written notice to the stockholders; in all such notices the amount on each share demanded, and the time and place of payment, shall be set forth; and if any stockholder shall neglect or refuse to pay such requisition within ten days after the time men- Assessments.

tioned for such payment, the corporation may bring suit against such delinquent for the amount due in any court of competent jurisdiction, and recover the amount, with two per cent. a month interest thereon for such detention; and if the amount cannot be made on execution, or if such delinquent is out of the state, then the corporation may, by an order on their books, declare such stock forfeited to the corporation, with whatever amount may have been paid thereon, and the same shall be thereby absolutely forfeited to the corporation; and no such delinquent, before the forfeiture of his stock, shall have the right to vote for directors, or receive any dividend on his, her or their stock, until the corporation is fully paid and satisfied.

Bonds.

SEC. 12. The corporation shall require of all officers in their employ bonds with security to their acceptance, with such penalty as they may think proper, for the faithful performance of their respective duties.

To locate a road.

SEC. 13. The corporation, by their agents, shall have full power from time to time to examine, survey, mark and locate the route of said rail-road for a single or

Route of road.

double track, commencing on the eastern line of the state, in a direction to the head of the Maumee Bay, as near on a line between the head of Maumee Bay and the Rapids as circumstances will permit, and running on the best ground for the interest of the company and convenience of the public, to the west line of the state, in the most approved direction to strike the Rapids of the Illinois or highest steamboat navigation of said river in the Illinois state: *Provided, however*, That if either of the state legislatures of Ohio or Illinois do grant the privilege to said corporation to construct said rail-road through that portion of their states to either or both of the designated points, then and in that case the said corporation shall commence at a suitable place at the head of the Maumee Bay, on Lake Erie, and running on the best ground for the interest of the company and convenience of the public, through the state of Indiana to the Rapids

of Illinois, in the state of Illinois, with full power to diverge from a direct line, when more favorable ground can be had for the construction of said road, the same not to exceed eighty feet in width.

Same. SEC. 14. And for the more effectually uniting and connecting the interest of said route, if the United States government do cause the said road to be surveyed and located from the head of the Maumee Bay to the Rapids of the Illinois river, by a United States engineer, against the 15th day of October, 1835, then and in that case the said corporation shall adopt the route so located by the United States engineer, as the Buffalo and Mississippi Rail-Road route, from the head of the Maumee Bay to the Rapids of the Illinois river: *Provided*, Ohio and Illinois give their consent to said location; otherwise to remain as in the thirteenth section specified.

Surveys, &c SEC. 15. And for the purpose of making such examination and location, it shall be lawful for the corporation, by their agents and persons in their employ, to enter upon any land to make surveys and estimates, and for the purpose of searching for stone, gravel, wood or other materials necessary for the construction of said road; but no stone, gravel, wood or other materials necessary for the construction of said road shall be taken away from any land without the consent of the owner thereof, until the rate of compensation shall be ascertained and paid.

Contract for land, &c. SEC. 16. It shall be lawful for the corporation, either before or after the location of any section of the road, to obtain from the person or persons through whose land the same may pass, a relinquishment of so much of the land as may be necessary for the construction or location of said road, as also the stone, gravel, timber or other materials that may be obtained on said route, and may contract for stone, gravel, timber and other materials; and it shall be lawful for said corporation to receive by donations, gifts, grants or bequests, land, money, labor, property, stone, gravel or other materials, for the benefit of said corporation; and all such contracts, relinquish-

ments, donations, gifts, grants and bequests, made and entered into in writing by any person or persons capable in law to contract, made in consideration of such location, and for the benefit of the corporation, shall be binding and obligatory; and the corporation may have their action at law, in any court of competent jurisdiction, to compel the observance of the same: *Provided*, That all such contracts, relinquishments, donations, gifts, grants and bequests, shall be fully and plainly made in writing, signed by the party making the same.

Jury in case, &c.

SEC. 17. That in all cases where any person, through whose land the road may run, shall refuse to relinquish the same, or when a contract between the parties cannot be made, it shall be lawful for the corporation to give notice to some justice of the peace in the county where the difficulties may occur, that such facts do exist; and such justice of the peace shall thereupon summon the owner of such land to appear before him on a particular day, within ten days thereafter, and shall appoint twelve disinterested persons of the neighborhood, who shall, after taking an oath faithfully and impartially to assess the damages, if any, view the lands or materials; and after having taken into consideration the advantages as well as disadvantages the road may be to the same, and shall report thereon, whether such person is entitled to damages or not, and if so, how much, and shall file such report with such justice; whereupon such justice shall enter judgment thereon, unless for good cause shown; and in case either party should show sufficient cause why judgment should not be entered, the justice may grant a review of the premises either with or without cost: *Provided*, That either party may at any stage of the proceedings appeal to the Circuit Court of the proper county, as in other cases; and such court shall appoint reviewers as above directed, who may report at that or the ensuing term, at the discretion of the court; and the judgment of the Circuit Court shall be final.

Minors, &c.

SEC. 18. And in all cases where the owner or owners

of such land or materials shall be minors, insane persons, or reside out of the county in which such land is situated, such justice shall cause three notices of the application made, and of the day fixed for the appointment of viewers, to be posted up in three of the most public places in the county; and if no person shall attend on the day named in said notices, the said justice shall adjourn the same until that day two weeks, at which time he shall proceed as if such person or persons had been duly notified to attend; and on such judgment being rendered, and the corporation complying therewith by the payment of costs or damages awarded against them, the corporation shall be seised of the lands or materials; costs shall be allowed or awarded against either party, at the discretion of the justice.

Using county roads.

SEC. 19. That if it shall be found necessary and advantageous to the location and construction of said railroad, the corporation shall have the right to lay the same along and upon any state or county road: *Provided, however*, That before such location shall be made, the corporation shall make application to the county commissioners of the proper county, for such right, and the said commissioners are hereby vested with the power to grant the same by an order entered on the record: *Provided, also*, That such right shall be granted on condition that the corporation shall leave a sufficiency of said state or county road in as good repair for county use as it was previous to such occupation.

Titles.

SEC. 20. That when said corporation shall have procured the right of way as hereinbefore provided, they shall be seised in fee simple of the right to said land, and shall have the sole use and occupancy of the same, and no person, body politic or corporate, shall in any way interfere therewith, molest, disturb or injure any of the rights and privileges hereby granted, or that would be calculated to detract from or affect the profits of said corporation.

Times of making road

SEC. 21. The said corporation shall commence the construction of said road any time within five years. The said route through the state of Indiana shall be divided into four divisions. The first division to commence at the east line of the state, thence west to range line, dividing five and six east, shall be taken and considered the first division; that part from range line, dividing ranges five and six east, to the Michigan road, to be taken and considered the second division; and that part from the Michigan road to the range line, dividing ranges four and five west of the principal meridian, shall be taken and considered as the third division; and from said last mentioned range line to the west line of the state, to be taken and considered as the fourth division of said rail-road; and the corporation may from time to time construct so much of said road, or any division thereof as may be within the ability and to the interest of the company, and shall complete it within twelve years from its commencement: *Provided*, That if the said road shall not be completed within the time aforesaid the general assembly may for good cause shown give further time to complete the same: *Provided, also*, That if any of said road shall be completed within the time aforesaid, that then and in that case all the rights, privileges and benefits granted to said company in that act, shall be extended to and invested in said corporation to such part of the said road as shall then be completed.

Highways.

SEC. 22. It shall be the duty of the corporation, whenever any state or county road now established shall cross or may hereafter cross the rail-road, to make and keep in repair good and sufficient causeways, so that the free use of the state or county road shall not be obstructed; and in all cases where any person shall own land on both

Private ways

sides of said road, and there shall not be any causeway for a public road leading from one tract to the other, the owners of said land shall have the right, free of charge, to cross the same, and to make such causeways as may be necessary for the convenience of said owner: *Pro-*

vided, That said owner of land shall not injure or obstruct said rail-road.

Cars, &c.

Sec. 23. That it shall be lawful for said corporation to place or prescribe the kind of carriages that may be used on said rail-road, whether propelled by steam or other power, for the transportation of passengers, for all kinds of produce, lumber, goods, wares and merchandise, or any other kind of property, and for this purpose the corporation may construct said rail-road of wood, stone or iron, or of all, with such locks, turns, gates, bridges and aqueducts, culverts, toll and warehouses, as may be considered necessary for the interest of the company and convenience of the public; and the corporation may charge tolls and freights on such part of the road as may be in a sufficient state of forwardness, although the whole be not finished; and they may charge for travel and transportation on the same, when it is graded and bridged, although the rails may not be laid so as to admit carriages thereon.

Tolls.

Sec. 24. The corporation may charge and receive such tolls and freights for the transportation of persons, commodities and carriages, on said road or any part thereof, as shall be for the interest of said company, and the same to change, lower or raise at pleasure: *Provided*, That the rates established from time to time shall be posted in some conspicuous place or places on said road.

Same.

Sec. 25. That when the aggregate amount of dividends declared shall amount to the full sum invested and ten per cent. per annum thereon, the legislature may so regulate the tolls and freights, that no more than fifteen per cent. per annum shall be divided on the capital employed, and the surplus profits, if any, after paying the expenses and reserving such proportion as may be necessary for future contingencies, shall be paid over to the treasurer of state for the use of common schools, but the corporation shall not be compelled by law to reduce the tolls and freights, so that a dividend of less than twenty per cent. cannot be made; and it shall be the duty of the corporation to furnish the legislature, if required, with a

correct statement of the amount of the expenditures and the amount of profits, after deducting all expenses; which statement shall be made under the oath of the officers, whose duty it shall be to make the same.

Dividends. SEC. 26. Semi-annual dividends of so much of the profits as the said corporation may deem expedient shall be made on the first Monday of December and June, annually, unless the directors fix on a different day, and pay the stockholders as soon thereafter as they can with convenience; and no dividends shall be made to a greater amount than the net profits, after deducting all expenses; and the directors may reserve such proportion of the profits as a contingent fund to meet subsequent expenses as they shall deem proper.

Malicious injuring. SEC. 27. That if any person or persons shall knowingly or wilfully injure or obstruct said road or any part thereof, or shall break, destroy or deface any work, edifice, toll or warehouse belonging thereto, such person or persons so offending shall pay to the corporation five times the amount of damages actually done, with costs of suit to be recovered by the corporation, before any court having competent jurisdiction: *Provided*, That all actions commenced [by the corporation, for the recovery of damages shall be commenced] within six months from the time such cause of action accrued and not after.

State subscribe. SEC. 28.* The state reserves the right to subscribe for eight hundred shares of the stock at any time within four years from the first commencement of said road.

Counties subscribe. SEC. 29. It shall be lawful for the county commissioners of each and every county through which said road may pass, for and on behalf of said county, to authorize, by an order, as much of the stock to be taken as they may think proper.

Statements to stockholders. SEC. 30. It shall be the duty of the corporation to cause a full statement of the affairs of the company to be made and exhibited to the stockholders at each annual election,

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* Repealed Feb. 7, 1838.

or at any other general meeting of the stockholders, at least once in each year.

Meetings called by, &c.

SEC. 31. Any number of the stockholders owning one-third of the stock, may call a general meeting of the stockholders, by giving four weeks' notice in one or more newspapers, and specifying in said notice the object of the call; and a majority of the stockholders being represented, they may make such order relative to the concerns of the company as a majority may determine on.

May borrow money.

SEC. 32. The said corporation, by their authorized agent, shall have power and authority to negotiate for and borrow money on the credit of said corporation, to the amount of two hundred thousand dollars, from any person or persons, states, United States or corporation, at a rate of interest not to exceed six per cent. per annum, for such a length of time as they may think proper, and can be agreed on by the parties for the payment of said money so borrowed for the use of said corporation. The work and other property of said corporation, together with the profits on said road, the individual stock in said corporation, and the individual stockholders thereof, shall each be liable for said loan, or so much thereof as contracted for during the time in which they are respectively such stockholders, to an amount equal to their stock respectively, and in that proportion may be recovered, by a suit in equity or otherwise.

SEC. 33. The corporation may, by contract, admit the intersection of said road with any other rail-road, turnpike or collateral road.

Transporting troops.

SEC. 34. The state of Indiana, in time of war, shall have the right to transport troops, munitions of war and provisions, free of toll, on said road.

Same.

SEC. 35. That should the Congress of the United States make a donation of lands to aid in the construction of said rail-road, or a donation of money, which may be accepted by the corporation, then and in that case the United States, in time of war, shall have the right to

transport troops, munitions of war and provisions, free of toll on said road.

May increase capital.

SEC. 36. Should the capital herein granted not be sufficient to accomplish the intended work, the corporation may increase the same; and the stockholders may, at any general meeting, reduce the number of directors to any number not less than five.

Plan of road with Secretary of State.

SEC. 37. That when the road is located, it shall be the duty of the corporation to cause a plan of the same to be deposited in the office of the secretary of state, and from and after that time it shall not be lawful for said corporation to alter or change any part of said location, unless said corporation pay the owner or owners of said land on said changed route the amount of damage they may sustain by such relocation.

Duration of charter.

SEC. 38. This charter is limited to seventy-five years in its duration.

State may purchase.

SEC. 39. The corporation shall cause to be kept a fair account of the whole expenses of making and repairing said rail-road, and every section thereof, with all incidental expenses; and also a fair and accurate account of tolls received; and the state shall have the right to purchase the stock of said company at any time after thirty-five years, by paying said corporation a sum of money, which, together with the tolls received, shall equal the costs and expenses of said rail-road as aforesaid, with an interest of eighteen per cent. per annum; and the books of said corporation shall be always open for inspection of any agent of state, appointed for that purpose by the legislature; and if said corporation shall neglect or refuse to exhibit at any time their books and accounts, agreeably to this section, when thereunto required, then all the rights and privileges granted by this act shall cease and be ended.

SEC. 40. The rail-road company created by this act shall have the right to commence the construction of said road, at such places on the said contemplated route as

the corporation may think best for the interest of the company and public good.

SEC. 41. This act to be in force from and after its passage.

Approved February 6, 1835.

AN ACT

TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE BUFFALO AND MISSISSIPPI RAIL-ROAD COMPANY," APPROVED FEBRUARY 6, 1835. Passed Feb. 6, 1837.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Buffalo and Mississippi Rail-Road Company be hereafter known and designated by the name and style of "The Northern Indiana Rail-Road Company," under which name and style the said corporation shall hereafter transact all business under and by virtue of the act incorporating the same. Name changed.

SEC. 2. The subscribers to the capital stock of said company, residing in other states, shall be entitled to the like privileges and immunities of the citizen stockholders of the state of Indiana. This act to take effect and be in force from and after its passage. Non-resident subscribers.

Approved February 6, 1837.

AN ACT

TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE BUFFALO AND MISSISSIPPI RAIL-ROAD COMPANY," APPROVED FEBRUARY 6, 1835. Passed Feb. 7, 1838.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the twenty-eighth section of the act to which this is an amendment be, and the same is hereby repealed. Section repealed.

Jurors. SEC. 2. That the number of jurors required by the seventeenth section of said act, to assess damages for the right of way, or for materials for the construction of said road, be, and the same are reduced to the number of three; and that so much of said seventeenth section as comes within the purview of this section be, and the same is hereby repealed.

Gifts, &c., to Company. SEC. 3. That any donation, gift, grant or bequest, made in land, property of any description, or materials to said company, in consideration of the location of said road, or otherwise, or for the benefit of the corporation, shall authorize the company to sell or otherwise dispose of the same in such manner as in their opinion may be best calculated to aid them in the prosecution of the work.

Purchase lands. SEC. 4. The said company are hereby authorized to purchase such lands along or near the line of said road, as they may deem useful to aid them in the construction thereof, not exceeding eighty acres in any one tract, and the same to sell and convey, or otherwise dispose of at pleasure.

Loans. SEC. 5. The power of said company to contract for a loan or loans, is hereby extended to any sum not exceeding one million of dollars, and for the payment of such interest on the same as the parties contracting may agree upon, not exceeding eight per cent. per annum, for one hundred dollars. So much of the thirty-second section of the act to which this is an amendment as comes within the purview of this section, be, and the same is hereby repealed.

SEC. 6. This act, and the act to which this is an amendment, is hereby declared to be a public act, and as such shall be liberally construed in any and all courts of justice for all beneficial purposes.

SEC. 7. This act to be in force from and after its passage.

Approved February 7, 1838.

AN ACT

TO AMEND AN ACT ENTITLED "AN ACT TO AMEND AN ACT TO INCORPORATE THE BUFFALO AND MISSISSIPPI RAIL-ROAD COMPANY," APPROVED FEBRUARY 7, 1838.

Passed Jan. 21, 1839.

May secure money borrowed by pledge or mortgage of road and stock.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That to secure the payment of any sum of money borrowed by the Buffalo and Mississippi Rail-Road Company, under the 5th section of the act to which this is an amendment, the directors of said company have full power and authority hereby granted, to pledge or hypothecate by way of bond, with or without seal, mortgage, trust or otherwise, the rail-road by them constructed under their charter, with all its privileges, appendages, appurtenances, and all property, franchises and chartered rights of said company, and also any stock remaining unsubscribed or forfeited to said company by non-payment of instalments; and such pledge, hypothecation, bond, mortgage or trust shall be valid for the securing of the payment of any sum or sums so borrowed, with the interest thereon accruing, which the same may be given to secure. And in case default shall be made in the money so borrowed and secured, the person or persons, body politic or corporate, their legal representatives, successors or assigns, claiming under such pledge, hypothecation, bond, mortgage or trust of stock, may, by due process of law, acquire, have, hold, use, occupy and enjoy the said road, with its appurtenances, implements and property of said company, and to take and use the tolls, rents, issues, profits and advantages thereof, during the whole residue of the term for which said company is chartered or incorporated, in as full and complete a manner as the stockholders of said company could or might have had, used or enjoyed the same, subject, nevertheless,

to all the restrictions, limitations and conditions claimed in the act incorporating said company; and any stock so pledged or hypothecated, may, on failure of payment aforesaid, be sold at public auction to the highest bidder, by the person or persons, body politic or corporate, to whom it may be pledged, or by their legal representatives, successors or assigns, giving twenty days' previous notice in two newspapers on or near the line of said rail-road, setting forth the time and place of such sale; and any deed by which any pledge or hypothecation, bond, mortgage or trust, shall be given by virtue of this act, shall be entered of record in the office of the recorders of counties through which said road may run, the same being first acknowledged according to law.

Road or stock mortgaged may be sold.

Mortgage recorded.

County boards receive mortgages and issue county bonds.

SEC. 2. The boards doing county business in the several counties through which the Buffalo and Mississippi Rail-Road passes, are hereby authorized and empowered to act as trustees for said company, to receive mortgages on real estate or other securities in trust for said company, and issue county bonds thereon to such amount, (not exceeding two-thirds of the value of the real estate so mortgaged, or other securities,) and made payable at such time and place, and at such rate of interest, (not exceeding eight per cent. per annum,) as may be agreed upon between said board or boards doing county business, and the directors of said company.

Stock forfeited for non payment.

SEC. 3. *And be it further enacted*, That the directors of the company may, at their option, declare any stock, with the amounts paid thereon, forfeited to the company, on which the stockholder is delinquent for three or more instalments, any thing in the eleventh section of the original charter of said company to the contrary notwithstanding. This act to take effect and be in force from and after its passage.

Approved January 21, 1839.

AN ACT

TO AMEND AN ACT ENTITLED AN ACT TO INCORPORATE THE BUFFALO AND MISSISSIPPI RAIL-ROAD COMPANY.

Passed Jan. 28, 1843.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That all elections heretofore holden by said company, for officers thereof, be, and the same are hereby legalized.

Records evidence in court.

SEC. 2. The books and recorded proceedings of said company, and the officers thereof, may be used and read in evidence before any justice of the peace, or in any court of record, in any and all cases wherein said company shall be a party, and shall be *prima facie* evidence of the matters therein contained.

SEC. 3. This act to take effect from and after its passage.

Approved January 28, 1843.

AN ACT

TO PROVIDE FOR THE CONSTRUCTION OF A RAILWAY IN LAPORTE COUNTY.

Provisions of act to provide for construction of public works extended to this company.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That all the provisions of an act, entitled "An act to provide for the continuance of the construction of all or any part of the public works of this state, by private companies, and for abolishing the board of internal improvements, and the offices of fund commissioner and chief engineer," approved January 28th, 1842, which may be applicable thereto, and which may be necessary for the purposes of the incorporation of a

company, and the construction of the rail-road hereinafter mentioned, be, and the same are hereby extended to any association or company that may, after the passage of this act, be formed in the county of Laporte, to construct a railway from Michigan City to the town of Laporte, or as much further eastward as said association or company may see proper to extend said railway.

Route and terminal of road.

Stock, how subscribed.

Directors, how elected.

Notices, how given.

SEC. 2. That the subscription to the stock in said company shall be made, and the directors of the same elected, in the same manner as is provided for and directed in said act, except that all publications in newspapers necessary to be made under said act, shall be made in one or more newspapers in Laporte county, and not otherwise.

Election of Directors, when and how held.

SEC. 3. As soon as the sum of two thousand dollars in value, either of money, labor, land or materials for construction, shall be subscribed as the capital stock of said association, and the same shall be paid or transferred, or secured to be paid to the commissioners to receive the subscriptions, the said commissioners shall order an election of directors of said company, to be held in the same manner as is provided for and directed by the act aforesaid.

Subscriptions to stock may be received, in what.

SEC. 4. Subscriptions to the capital stock of said company may be made either in money, labor, real estate or materials proper for the construction of the road; and all subscriptions in labor shall be made at a value in money, and shall be secured to be paid either in labor or its value in money, to the satisfaction of the commissioners or directors receiving the same: *Provided*, That no county shall subscribe for any part of said capital stock.

No subscriptions by counties.

Powers of company.

SEC. 5. The said board of directors, when organized, and the said company thereafter, shall have all the power and authority for the construction of said railway, and the using and owning the same, and the charging tolls thereon, and the government thereof, which is by the said act conferred upon and granted to associations or companies organized under the act aforesaid, and shall

therein be governed by all the provisions of said act applicable to the purpose contemplated: *Provided*, That this charter may be amended or repealed at any time by a majority of the legislature.

Proviso repealed, see sec. 1, following act.

Sec. 6. That before the association or company authorized by this act shall proceed to construct said road, the present value of the work, labor, grading and improvement done by the Buffalo and Mississippi Rail-Road Company, in the location and construction of a railway between Laporte and Michigan City, shall be estimated by some competent engineer, at the joint expense of both of said companies; and the company hereby authorized shall be required to pay to said Buffalo and Mississippi Rail-Road Company the appraised value thereof, in the scrip heretofore issued, and now out and unpaid by said Buffalo and Mississippi Rail-Road Company; and if the said last named company shall refuse to receive the same, then the said association hereby created may proceed to the construction of the said railway, without any payment or reference to said Buffalo and Mississippi Rail-Road Company whatever, not interfering with any existing rights of said last named company.

Repealed, see sec. 1, following act.

Sec. 7. This act to be in force from and after its passage.

Approved February 11, 1843.

AN ACT

TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE BUFFALO AND MISSISSIPPI RAIL-ROAD COMPANY," APPROVED FEBRUARY 6, 1835, AND ALL ACTS AMENDATORY THERETO.

Passed Jan. 13, 1845.

Sec. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the time for commencing and completing one-half of said road be extended the further

Times for making road extended.

time of five years, and for completing the other half of said road, the further time of ten years.

Company may agree with other companies for connections, &c.

SEC. 2. The president and directors of said company are authorized and empowered to agree with any company or companies incorporated to construct a rail-road from Buffalo to the Mississippi river, or for any intervening section on said route for connecting routes of travel and general management in business through the whole extent of the roads of the contracting companies, (or any part thereof completed, so as to insure regular intercourse through the entire line of the road, or any part completed,) on such terms and conditions, with division of profits and receipts, as said companies may stipulate.

SEC. 3. This act to be a public act, and to be in force from and after its passage.

Approved January 13, 1845.

AN ACT

Passed Jan. 6, 1846.

TO AMEND AN ACT, ENTITLED "AN ACT TO INCORPORATE THE BUFFALO AND MISSISSIPPI RAIL-ROAD COMPANY," APPROVED FEBRUARY 6, 1835.

WHEREAS, by the 13th section of said act, it is required that the route of said road shall extend westwardly, in a direction towards the rapids of the Illinois river, in the state of Illinois: AND WHEREAS, it is represented to this general assembly that it is important for the interest of said company and to the public, that said road should diverge from that route, in a direction towards Chicago, in said state of Illinois: Therefore,

Change of route.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That said company be, and they are

hereby authorized to extend the route of said road westwardly from the town of Laporte, in Laporte county, by the way of Michigan City, in said county, to the western line of said state, on the best ground and in the most suitable direction towards Chicago, in the state of Illinois.

Contracts with company in other states.

SEC. 2. Said company is hereby authorized to enter into any mutual contract with any company or companies now incorporated, or hereafter to be incorporated, within the states of Ohio and Illinois, or either of them, by which the portions of said road within the states of Ohio, Indiana and Illinois, forming together a continuous line from the Maumee Bay, in Ohio, to Chicago, in Illinois, or the portion in Indiana and either of the other states, shall form one road, to be known by one common name, and by which the capital stock of each and all, or any two of said companies, shall become merged and consolidated into one joint and common stock, equal in amount to the capital of each and all of said several companies, or such two of them who shall enter into such contract, and so that the stockholders in said consolidated company shall have one common seal, president and board of directors; which common board of directors shall consist of not more than twelve or less than five; and said company, when so consolidated, shall possess and enjoy all powers, rights, privileges, immunities and franchises, granted to, or vested in said Buffalo and Mississippi Rail-Road Company, by said original act of incorporation, and all amendments thereto.

Consolidation.

New name.

SEC. 3. Should such consolidation take place, and a new name be adopted by said consolidated company, such new name shall become, to all intents and purposes, the corporate name of said company, when and after a notice thereof shall have been filed in the office of the Secretary of State of the state of Indiana.

SEC. 4. In case any portion of the capital stock of said company, or of said consolidated company, should such

consolidation take place, may be, at any time, owned by any person or persons who may at such time be non-residents of this state, but residents and citizens of some other state of the United States of America, then and in such case a number of the directors of said company, or of said consolidated company, bearing nearly the same proportion to the whole number of directors that the stock owned by such citizens and residents of such other state or states bears to the whole stock of said company, be residents and citizens of such other states, any thing in the sixth section of said original act of incorporation to the contrary notwithstanding: *Provided*, That the number of non-resident directors shall never, at any one time, exceed one-half of the whole number of directors.

Directory in each state.

Branch to Lafayette, &c.

SEC. 5. Said Buffalo and Mississippi Rail-Road Company, or said consolidated company, should such consolidation take place, are hereby authorized to construct a branch of said road from said town of Laporte, Goshen, South Bend or Michigan City, southwardly, to the town of Lafayette, in the county of Tippecanoe, and thence to the west line of said state of Indiana, in a direction towards St. Louis, in the state of Missouri, on the best ground for the interests of said company; and for that purpose they are authorized to increase the capital stock of said company, by any sum not exceeding two millions of dollars; and in the location, construction and management of said branch of road, and everything connected therewith, said company shall be governed by the same regulations, so far as the same are applicable, prescribed in, and shall be fully vested with and enjoy all the powers, rights, franchises, privileges and immunities granted by said original act of incorporation, and the amendments thereto, in the same manner as if said branch road constituted an integral part of the original and main line of said road.

Do. to be commenced.

SEC. 6. Said company shall commence the construction of said branch road within four years from this time, and shall complete the same, with a single track, to said

town of Lafayette, within four years thereafter, otherwise all the rights and privileges relative thereto, hereby granted to said company, shall be forfeited; but should any part of said branch road be completed within such time, the part so completed, and the rights and privileges hereby granted, shall survive to said company as to the part so completed.

No other charter in case.

SEC. 7. In case said company shall commence the main line of said road within two years from this time, and complete the same, with a single track, through the state of Indiana, within five years from this time, then and in such case no charter shall be granted to any other company to construct any other road or roads in the vicinity thereof, which would materially diminish or interfere injuriously with the profits of said road, within *ten* years thereafter, without the consent of said company; and in case said company shall complete said branch road, within eight years from this time, in like manner, to said town of Lafayette, then and in such case no other charter shall be granted to any other company to construct any other road or roads in the vicinity of said branch, which would materially interfere with or diminish the profits of said branch, within ten years thereafter, without such consent.

Liability for debts.

SEC. 8. In case said company shall become consolidated with any other company or companies, provided for in this act, the act of consolidation shall of itself render such company or companies, so consolidated, or any company formed under the provisions of this amendment, liable for all debts of said Buffalo and Mississippi Rail-Road Company, incurred before such act of consolidation.

Located through.

SEC. 9. That in the permanent location and establishment of the rail-road authorized by the original charter, to which this is an amendment, the same shall be located, established and constructed to and through the county towns of the counties of Steuben, Lagrange, Elkhart, St. Joseph, Laporte, and also to Michigan City, in the the county of Laporte.

County towns.

SEC. 10. The acceptance of any part of the amendment, provided for by this act, shall be an acceptance of the whole.

SEC. 11. The privileges granted in the fifth section of this act shall not be enjoyed by said company, or any company or companies formed or consolidated under the provisions of this act, unless the main line of said road shall be constructed.

SEC. 12. This amendment, like said original act of incorporation, and all former amendments thereto, is hereby made and declared to be a public act, and it shall be in force from and after its passage.

Approved January 6, 1846.

AN ACT

Passed Jan. 20, 1846.

SUPPLEMENTAL TO THE ACT APPROVED JANUARY 6, 1846, ENTITLED "AN ACT TO AMEND AN ACT ENTITLED AN ACT TO INCORPORATE THE BUFFALO AND MISSISSIPPI RAIL-ROAD COMPANY," APPROVED FEBRUARY 6, 1835.

Amendment of prior act.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be lawful for said Buffalo and Mississippi Rail-Road Company, in the permanent location and establishment of said rail-road through the counties of Steuben and Lagrange, to locate, establish and construct the same without reference to the county towns or seats of said counties of Steuben and Lagrange, if in their opinion their own and the public interests will thereby be promoted.

SEC. 2. This act to be in force from and after its passage.

Approved January 20, 1846.

AN ACT

TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE BUFFALO AND MISSISSIPPI RAIL-ROAD COMPANY," APPROVED FEBRUARY 6, 1835, AND THE SEVERAL ACTS AMENDATORY THERETO.

Commissioners of Western Division.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That Chauncey B. Blair, Andrew L. Osborn, Abraham P. Andrew, Jr., William C. Hannah and William J. Walker, and their successors in office, to be elected as hereinafter provided, shall be, and they are hereby constituted a board of commissioners to take charge of the western division of the Buffalo and Mississippi Rail-Road, which said western division shall comprise all of said road west of Laporte, in the county of Laporte; and as such board they shall be vested with all the powers, rights and capacities touching the said western division as are now possessed by the directors of said company, and shall in and over said division, for the purposes of constructing, operating and stocking said road, and for all purposes connected therewith, be clothed with all the rights, privileges and franchises secured to the directors of said company by the charter thereof, or the amendments made, or to be made thereto; and they are hereby authorized to construct all or any part of said road lying west of the village of Laporte, and also a branch of said road from Michigan City to the southern line of the state of Michigan, in the direction of New Buffalo, to connect with the road of the Michigan Central Rail-Road Company, with all proper fixtures, shops, depots and other appurtenances.

For part of road west of Laporte.

And branch.

May contract for loans.

SEC. 2. Said board of commissioners, under the name and style of the Board of Commissioners for the Western Division of the Buffalo and Mississippi Rail-Road, shall

have full power and authority to enter into contract or contracts, agreement or agreements, with any person or persons, body or bodies politic or corporate in this state or out of it, for a loan or loans of money for the purchase of iron and other materials for the construction of said branch road, and may contract to lease the same for such time as may be deemed expedient, or may in advance contract to make a lease of said branch road and said fixtures, depots, shops and appurtenances, in consideration of an advance of money wherewith to build the same.

May lease branch.

Sec. 3. They shall in like manner have full power and authority to enter into any contract or contracts, agreement or agreements, with any person or persons, body or bodies politic and corporate, either in the state or out of it, for any loan or loans of money, at a rate of interest not exceeding eight per centum per annum, payable semi-annually, and the principal payable at any time after ten years, subject to the provisions hereinafter provided for the construction of the main line of the said western division of said road, and proper and suitable buildings and appurtenances thereto, and stocking the same, and for change of the rail as hereinafter provided; and if any such loan or loans shall be obtained from the Michigan Central Rail-Road Company, or its stockholders, or through its agency, it shall be competent for the said commissioners to agree that the western division of said road, or any part of it, shall be constructed, and said money expended in said construction, under the direction and by the superintendent of the Michigan Central Rail-Road Company, and to place said western division of said road, or any part thereof, into the possession of said company, or the lenders of the said money, together with the stock, fixtures and appurtenances thereof, under a mortgage or other conveyance by way of security, with such or like powers as are described in section one of the amendment to the charter of the Buffalo and Mississippi Rail-Road Company, approved January 21, 1839, or otherwise as security for the repayment of said

Loans for main line.

Mortgage road.

loan or loans, with full power to manage, operate and control the same: *Provided*, That the said commissioners shall in no case, by such mortgage or otherwise, encumber or exercise any control over said road east of Laporte; nor shall any debt created by them constitute any charge or liability upon or against any portion of rail-road east of Laporte, or the stockholders thereof, subject, however, to be, and the same, on the demand of the said board of directors, shall be restored to the possession and control of the directors of said company upon the expiration of the period for which said loan or loans shall be made, and the completion of the entire line of the road of said company across the state; such change of possession, however, not to impair or in any way affect the validity of said mortgage, or the rights of the said mortgagees thereunder; and the said commissioners may make any contract or agreement for the operation and stocking said western division of said road, and for the division of profits thereof, as they may deem advisable and may be agreed upon between them and other contracting parties; and in case the lenders of said money or the mortgagees shall be compelled to enforce said security by reason of any default in payment, and procure a sale of said road west of Laporte, or which may have been conveyed to them, then the purchasers at said sale shall be entitled to the like franchises and privileges as the Buffalo and Mississippi Rail-Road Company are now entitled to; and said franchises and privileges shall attach to and accompany said rail-road: *Provided, however*, The franchises and privileges of the Buffalo and Mississippi Rail-Road Company, and its rights east of Laporte, shall in nowise be impaired or affected thereby; and said parties loaning said money, or said mortgagees, shall have full power from time to time to repair said road and make such improvements, constructions and erections out of the earnings of said road as may be deemed necessary to facilitate its business: *Provided*, That until the said western division of said road shall be restored to the possession of

To revert in case.

Eastern part not affected.

Road restored to directors.

said directors of the Buffalo and Mississippi Rail-Road Company, the Michigan Central Rail-Road Company, or other party or parties in interest, whether as stockholders or lenders, shall use and operate the rail-road upon their own account, and at their own risk and expense, and shall take and have all the proceeds thereof in lieu of said interest; and said commissioners may make such contract with the lenders for the division of profits as between them and [the] stockholders as may be deemed just and equitable; and the Buffalo and Mississippi Rail-Road shall not be, until such surrender, liable for said interest, or for any expenditures for repairs, or for costs of operating the road, until said western division shall be restored to said directors as aforesaid, from which time said eight per centum interest shall become payable, and until that time said parties receiving said profits shall not be required to render any account of the revenues, business or expenditures of or upon said road; and it shall be competent for said commissioners to agree that said western division shall remain in possession of said lenders until said loan shall become due and payable; and in case any permanent erections or improvement shall be made upon said road during said time, or in case it shall become expedient to place upon said road a T rail, the cost and expense of such improvement and change of rail shall be added to the amount of said loan.

Accounts to be rendered.

SEC. 4. Said parties or mortgagees shall render to the commissioners, and also to the directors of the said Buffalo and Mississippi Rail-Road Company, a full statement of all the capital invested in the construction of said western division, and also of all additional investments and erections, and also for the change of the flat rail for the T or heavy rail, in case any such change may be deemed expedient.

If whole road not completed, Charter not forfeited.

SEC. 5. In case it shall so happen from any cause that any portion of the Buffalo and Mississippi Rail-Road shall not be completed within the time required by its charter, or the amendments thereto, such failure to complete said road shall not be deemed a breach or violation of said

charter, or of the duties of said company thereunder, but all the rights and privileges granted to the said company and its charter, shall attach to and become the rights and privileges, and the charter of the portion of said road which shall be completed, and no act or omission of duty done or committed by the company or directors, or said commissioners thereof, which may be a cause of forfeiture of its franchises, or any part thereof, shall, in any way, impair or affect the rights of the lenders of said money, or the said mortgagees or their assigns, secured to them under said charter and amendments thereto.

Appeals from report of jury.

Sec. 6. In case of any appeal from the judgment of any justice of the peace, upon any report of any jury for the appraised [amount] of damages touching the right of way, or for lands taken for the purpose of constructing thereon the road of said company, as provided in its charter and amendments thereto, such appeal shall not prevent the said company from proceeding in the construction of said road over such lands, nor deprive it of its right of entry thereon for that purpose; which right is hereby expressly granted: *Provided*, That before said company shall so enter and construct said road, it shall either tender to the owner of said lands the full amount of damages which shall have been adjudged to him or her, or shall pay the same into the court to which such appeal may be taken, subject to the order of said court, and every such appeal shall be taken within twenty days from the rendition of said judgment, and not afterwards, and acceptance of the amount of the judgment when tendered, shall in all cases be taken to be a waiver of the right to appeal, and a certified copy of the transcript of the judgment of the said justice or of the court to which such appeal shall be taken, may be taken by the company, and caused to be recorded in the recorder's office of the county where said lands are situate, and such record shall be notice to all the world of the right of the company; and if, in case of any appeal, judgment shall be recovered against said company for a larger amount

Tender.

May construct road.

than was recovered before said justice, then said company shall, within sixty days from the date of said judgment, pay the difference between the amount of the judgment before the justice and that before the said court, in case the amount of the judgment before the justice shall have been previously paid into court; and if not, then the whole amount of said judgment, in the appellate court, shall be paid to the owner of said land within the same time, or, in default thereof, execution may issue therefor; and in case it shall, at any time, be found that the said company is or shall be in possession of land, the title to which has not been made perfect in said company, it may obtain title to the same by appraisal, judgment and the payment therefor, as in other cases provided for in said charter and amendments thereto.

Commissioners open books for subscription.

SEC. 7. In case any person shall wish to become a stockholder in said western division of said road, the said commissioners shall have power to open books at Laporte and Michigan City, under such regulations as they may deem proper, for subscription of stock, and shall have and exercise the same power to collect the subscriptions and enforce payment thereof, as the charter of the said company secures to the directors thereof, and in the same manner; and in case loans of money should also be made, the said commissioners may make such agreement with the lenders thereof, relative to the dividend upon said stock, as between the said stockholders and lenders, as may be deemed by the parties contracting just and proper.

When road restored to Co., duty to run, &c.

SEC. 8. Whenever the portion of the road which may be mortgaged under this act, or placed in the control of the Michigan Central Rail-Road Company, or the lenders of said money, shall be restored to the possession of the Buffalo and Mississippi Rail-Road Company, it shall nevertheless be the duty of the Buffalo and Mississippi Rail-Road Company, and it is hereby required thereafter always to transport freight and passengers to and from Michigan City, and to and from the depots used by the

Michigan Central Rail-Road, at Michigan City, and over that portion of the Buffalo and Mississippi Rail-Road between Michigan City and the Illinois line, for the rates of fare which shall not exceed per mile the lowest rates charged to any other parties on any portion of the whole of the said Buffalo and Mississippi Rail-Road, or any road connected therewith, by contract or otherwise, in the division of profits, and shall draw the cars of the Michigan Central Rail-Road Company over the road between Michigan City and the Illinois line, with the engines of the Buffalo and Mississippi Rail-Road Company, in such a manner as to accommodate the Michigan Central Rail-Road Company in the transportation of its freight and passengers, allowing said company a just and reasonable compensation for the use of its cars; and the width of the track of the Buffalo and Mississippi Rail-Road shall not in any case be changed so as to defeat this object; and in case it shall so happen that the money so loaned and secured by mortgage should not be paid, and said mortgage shall be foreclosed as contemplated in this act, and the property in said western division, or in said road from Michigan City to the Illinois line, shall become vested in any other parties than the Buffalo and Mississippi Rail-Road Company, then and in that case the parties that shall become the purchasers, and their assigns, shall be forever required to transport freight and passengers over said road between Michigan City or Laporte, as the case may be, and the Illinois state line, and to and from Michigan City or Laporte, as the case may be, and to and from the road of the Buffalo and Mississippi Rail-Road Company, in connection therewith at either of those points, for rates of fare which shall not exceed per mile the lowest rates charged to any other parties, on any portion or the whole of the Michigan Central Rail-Road, or any road connected therewith by contract or otherwise, in the division of profits; and shall draw the cars of the Buffalo and Mississippi Rail-Road Company between Michigan City or Laporte, as the case may be, and the Illinois line, with the engines of the party purchasing said road, or their

Rates of fare.

Draw cars of Central Co.

Width of track.

If not restored, holders to run.

Rates.

Cars drawn.

assigns, in such a manner as to accommodate the Buffalo and Mississippi Rail-Road Company in the transportation of freight and passengers, allowing said company a just and reasonable compensation for the use of said cars, but charging freight as aforesaid, and in like manner, and in all respects; in case that portion of the Buffalo and Mississippi Rail-Road east of Laporte, and between Laporte and Michigan City, shall be completed and put in operation before the said western division, or that portion of said road from Michigan City to the Illinois line, shall be restored to the possession of the Buffalo and Mississippi Rail-Road Company, it shall be the duty of the Michigan Central Rail-Road Company, or other party or parties in interest, to transport the freight and passengers and draw the cars of the Buffalo and Mississippi Rail-Road Company over said western division, or the said road from Michigan City to the Illinois line, so as to accommodate the Buffalo and Mississippi Rail-Road Company in the transportation of freight and passengers, and subject to the same terms as the charges for freight, and pay for the use of cars.

Road sold under mortgage.

SEC. 9. In case said road shall be sold under said mortgage, and the property therein and the franchises thereof shall become vested in any parties other than the Buffalo and Mississippi Rail-Road Company, or in case said portion of said road should remain in the possession of said company, and the charter of said company on the residue of said routes should by any contingency become forfeited, and that subsequently said charter should be revived, or a new one granted, then and in that case the parties that shall become purchasers, or otherwise have possession of said portion of said road, and their assigns, shall be required forever to transport freight and passengers over the said road between Michigan City or Laporte, as the case may be, and the Illinois state line, to and from Michigan City or Laporte aforesaid, and to and from the road of said company at Michigan (City) or Laporte as aforesaid, organized under such renewed or

To be used.

newly-granted charter for rates and fare, which shall not exceed per mile the lowest rates charged to any other parties, on any portion or the whole of the said Michigan Central Rail-Road, and shall draw the cars of said newly-organized company on and over the road between Michigan City or Laporte as aforesaid, and the Illinois line, with the engines of the said parties purchasing or owning said road, or their assigns, in such a manner as to accommodate such newly organized company in the transportation of its freight and passengers, allowing said company a reasonable compensation for the use of its cars, but charging freight as aforesaid. Rates of fare. Cars drawn.

Sec. 10. In case the Michigan Central Rail-Road Company, or other persons or party constructing said branch rail-road, or for whom the same may be constructed, or their or either of their assigns, shall enter into any arrangements either with the Southern Michigan Rail-Road Company or the Erie and Kalamazoo Rail-Road Company, or any other rail-road company in Michigan for the formation of any connection therewith, except as provided in this act, whereby either freight or passengers to or from Toledo shall be carried on said branch road from Michigan City to the northern state line, and thereby open a communication between Toledo and Chicago to the detriment of the Buffalo and Mississippi Rail-Road, until the same shall be completed through between those two points, it shall work an entire forfeiture of the said branch road, and all the rights, privileges and franchises thereto, herein granted to the said Central Rail-Road Company, or other persons for whom or by whom the said branch road may be undertaken or constructed, or their assigns. Forfeiture in case.

Sec. 11. The said board of commissioners created by this act shall hold their offices until said contract or contracts for said loans shall have been made, and thereafter they shall be elected annually by the stockholders, who shall become such in the western division of the Buffalo and Mississippi Rail-Road Company, upon the first Mon- Commissioners chosen annually.

day in January of each year, or upon such other day as shall be by said board appointed, and in case no election shall be had upon the day hereby appointed, the commissioners last elected or appointed shall hold their offices until a new election shall be had; said commissioners may be elected from stockholders living either within or out of the state, and shall have power to choose a president from among their number, and also to appoint a secretary and treasurer of said board, and a majority of said board shall be a quorum to transact all business;

How contract. and they shall enter into contracts or agreements in the name of the Buffalo and Mississippi Rail-Road Company, by the board of commissioners for the western division of

Seal. said road, and may use a corporate seal, which shall be the seal of the said board, or of the said company, but they shall exercise no control or have any thing in any way to do with or incumber that portion of said road lying east of Laporte; and the said board of commissioners shall be dissolved whenever the Buffalo and Mississippi Rail-Road is completed through the entire line of its route.

Debt to be paid. SEC. 12. The present outstanding debt of the Buffalo and Mississippi Rail-Road Company shall, in case any loan of money shall be made for the construction of the western division of said road, be a charge upon the stock subscribed for said division, and upon said commissioners; and it shall be the duty of said commissioners to procure the same to be cancelled, paid or otherwise discharged, and save the said company from any liability by reason thereof, and relieve it from all obligations to pay the same.

Stock cancelled. SEC. 13. The present directors shall, when this act is accepted, surrender up their stock to be cancelled, and any and every stockholder of stock subscribed previous to the first of January, 1848, may and shall have the right, upon request, to have his said stock cancelled entirely; and so far as the said stock shall be surrendered up and cancelled, it shall be the same as if it had never been subscribed for, and the directors of said company

shall cancel all such surrendered and all forfeited stock, and books shall from time to time be opened, and stock subscribed, in the same manner and to the same extent as if such cancelled stock had never been taken. New subscriptions.

Sec. 14. This act shall take effect and be in force from and after the time when the same shall be accepted as a part of the charter of the Buffalo and Mississippi Rail-Road Company, by a resolution of the board of directors thereof, entered upon the records of said board in full, and from that time the said commissioners shall be fully vested with the powers herein conferred upon them, and from that time, also, the places of the present board of directors shall be vacated, and the acceptance of this act by them shall be taken as a resignation of their several officers as directors of said company; and from that time until the said western division of said road shall be redeemed from said mortgage or other conveyance by way of security for said moneys loaned, or until the whole line of the Buffalo and Mississippi Rail-Road shall be completed across the state; the directors of said company shall be elected by the stockholders of said company, whose stock shall have been subscribed in books opened or to be opened therefor, in counties along the line of said road east of Laporte; and said directors, so to be elected, shall be residents of the said eastern counties, excepting as by the charter of said company and the amendments thereto, they may be non-residents of the state of Indiana, and said part of said road lying east of Laporte shall be entirely under the control of the stockholders, whose stock shall have been so subscribed; but said directors and commissioners shall mutually report to each other all proceedings therein, expenditures and the revenues of their respective divisions, and such other matters as may be proper whenever requested, but not oftener than once in each year; and after said western division shall be replaced in the possession of the directors of said company as provided in this act, then and from that time its affairs shall be controlled by the stockholders generally

Act take effect.

Directors chosen by stockholders east of Laporte.

Road there under their control.

Mutual reports.

under the charter, and directors shall be elected by them from any part of the state or elsewhere, under the provisions of the charter and amendments thereto, in the same manner as if this act had never been passed.

New directors appointed.

SEC. 15. In case of the acceptance of this act as an amendment to the charter, and the resignation of the present directors, Thomas S. Stanfield and Joseph L. Jernegan, of the county of St. Joseph, and James H. Barnes and Erastus W. H. Ellis, of the county of Elkhart, and Delavan Martin and Drusus Nichols, of the county of Lagrange, and Madison Marsh, of the county of Steuben, shall be, and they are hereby constituted a board of directors for the Buffalo and Mississippi Rail-Road Company, as the successors of the now existing board of directors, to hold their offices as such until their successors in office are duly elected according to the provisions of the charter and amendments, for the election of directors, with the power to fill all vacancies in their board, and to organize the same, and to make all necessary orders, and to do all acts which may be made or done by the directors of said company, under the original charter or the amendments thereto, except as otherwise provided in this act, and to receive from the present directors all records or other books and papers, and all stock and other property or thing belonging to said company; the directors of said company shall have power to make all such necessary contracts with any rail-road company or companies, either in Ohio or Illinois, for the passage of cars or otherwise, as shall accommodate said Buffalo and Mississippi Rail-Road Company in the transportation of its freight and passengers, but they shall in no case incumber the western division of said road, nor shall any debt created or contracted hereinafter by the directors of the Buffalo and Mississippi Rail-Road Company constitute any charge or liability upon or against the western division of said road, or the stockholders thereof, until the said western division shall be restored to the possession of the directors of said road, under the provisions of this

Powers.

Contracts with other companies.

No charge on Western Division.

act: *Provided*, That if either of the above persons shall not at the time of the organization of said board, be a stockholder in said company, it shall vacate his said office as such director, which vacancy shall be filled as in other cases. Vacancy, &c., Directors.

Approved February 8, 1848.

AN ACT

RELATIVE TO THE COMMISSIONERS OF THE WESTERN DIVISION OF THE BUFFALO AND MISSISSIPPI RAIL-ROAD COMPANY.

Passed Jan. 5, 1849.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the board of commissioners of the western division of the Buffalo and Mississippi Rail-Road Company are hereby authorized and empowered to construct, run, manage and operate the branch specified in section five (5) of an act, entitled "An act to amend an act, entitled an act to incorporate the Buffalo and Mississippi Rail-Road Company, approved February 6, 1835," approved January 6, 1846, and for that purpose shall possess and enjoy all the powers and capacities, and have all the privileges and immunities granted to the Buffalo and Mississippi Rail-Road Company. Commissioners construct branch to Lafayette, &c.

SEC. 2. Said commissioners may construct said branch as soon as that part of the main line between Laporte and Michigan City shall be completed, and complete the same within six years thereafter; and it shall constitute a part of the western division of said road, and may be constructed, managed, run and operated as such: *Provided*, That nothing herein contained shall be so construed as to require or authorize the said Buffalo and Mississippi Rail-Road Company to redeem said branch; but the same shall be constructed, run, managed and operated forever by the board of commissioners of said Time when.

western division and their successors, or the lenders of [the] money, (as the case may be,) as is provided in section three of an act, entitled "An act to amend an act [entitled an act] to incorporate the Buffalo and Mississippi Rail-Road Company," approved February 6, 1835, and the several acts amendatory thereto, approved February 8, 1848; and the costs thereof shall not, at any time, constitute a change [charge] upon the said Buffalo and Mississippi Rail-Road Company, nor shall said company at any time have or exercise any control over said branch, or any part thereof. And, for the purpose of constructing, managing, running and operating said branch, the said board of commissioners of said western division, and their successors in office forever, are hereby constituted a body politic and corporate, with perpetual existence during the life of the said original charter, with such powers, for the purposes aforesaid, as are specified and given in the amendment aforesaid, approved February 8, 1848: *And provided, further*, That in case the said Buffalo and Mississippi Rail-Road Company shall redeem, as provided and allowed in the amendment last aforesaid, the said board of commissioners, or lenders of the money, or owners of the said branch, as the case may be, shall be entitled to all the privileges on the road between the junction of said branch and the main line of said road and Lake Michigan, and from thence to and from the Illinois state line, secured to the Michigan Central Rail-Road Company, by the eighth section of the amendment last aforesaid.

Commissioners body corporate.

With privileges on main line.

SEC. 3. This act shall be a public act, and shall be in force from and after its acceptance by said board of commissioners of the western division of said road; and all laws conflicting with the provisions of this act are hereby repealed.

Approved January 5, 1849.

At a meeting of the board of commissioners of the western division of the Buffalo and Mississippi Rail-Road, held at their office, on the 17th day of January, A. D. 1849, pursuant to the call of the president: present, William C. Hannah, president; Abraham P. Andrew, Jr., Andrew L. Osborn, Chancy B. Blair and William J. Walker, commissioners; at which time and place, among other proceedings of said board, the following resolution was passed:

Vote of acceptance.

Resolved, That an act of the general assembly of the state of Indiana, entitled "An act relative to the commissioners of the western division of the Buffalo and Mississippi Rail-Road Company, approved January 5th, 1849," be, and the same is hereby accepted and adopted as a part of the charter of this board.

And on motion the board adjourned.

W. C. Hannah, *President.*

(Attest,)

A. L. Osborn, *Sec., pro tem.*

I, Samuel E. Williams, secretary of the board of commissioners of the western division of the Buffalo and Mississippi Rail-Road Company, do hereby certify that the above is a true and correct copy of the resolution passed by said board, at their meeting on the 17th day of January, 1849, as the same now appears on the records of said board.

Samuel E. Williams, *Secretary.*

AN ACT

TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE CONSTRUCTION OF A RAILWAY IN LAPORTE COUNTY," APPROVED FEBRUARY 11, 1843.

Proviso to 5th and whole of 6th sections repealed.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the proviso to the fifth section, and the whole of the sixth section, of the act entitled "An act to provide for the construction of a railway in Laporte county," approved February 11, 1843, are hereby repealed.

When to merge in B. & M. R. R. Co.

SEC. 2. Whenever the eastern end of the Buffalo and Mississippi Rail-Road shall be constructed to the town of Laporte, this company shall be merged in the same, and the stockholders then shall be stockholders in the said Buffalo and Mississippi Rail-Road Company, and shall be entitled to and receive dividends according to the stock owned by them, clear of all incumbrances created by said Buffalo and Mississippi Rail-Road Company, prior to such union.

Individual liability of directors.

SEC. 3. The directors of said company who vote for and create a debt exceeding the amount of solvent stock at the time, shall be liable in their individual capacity therefor; and the legislature hereby reserves the right to repeal or amend this charter whenever its provisions are violated.

May be repealed, when.

Commissioners to open books.

SEC. 4. C. B. Blair, of Michigan City, John B. Niles and A. P. Andrew, Jr., or any two of them, are hereby appointed commissioners to open books for subscriptions to the capital stock of said company.

Acts, when in force.

SEC. 5. This act, and the act to which it is an amendment, shall be a public act, [public acts,] and this shall be in force from and after its passage.

Approved January 15, 1849.

AN ACT

TO EMPOWER RAIL-ROAD COMPANIES TO RECEIVE LANDS, LOTS AND OTHER PROPERTY IN SUBSCRIPTION OF STOCK.

Companies may hold real estate by purchase or as stock.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be lawful for any rail-road company which may now be or hereafter may be incorporated, to receive by purchase or by subscription of stock any lands, and to hold and convey the same, that may be necessary for the purpose of erecting depots, turn-outs, work-shops, warehouses, or for any other purposes necessary for the conveniences of said companies, in order to transact the business usual for rail-road companies.

May receive lands and lots as subscription.

SEC. 2. It may be lawful for said corporations, by the consent of the directors of the same, to receive the subscription for the capital stock of said companies, under such regulations and restrictions as their boards of directors may prescribe, any lands, town-lots, real estate or other description of property as may be offered for that purpose: *Provided, however*, That the same shall be sold, except so much as may be necessary for the use of said road, or for the purposes aforesaid, within a reasonable time, and the proceeds applied for the construction of said roads or their appurtenances.

Proviso.

This act, when to be in force.

SEC. 3. There being, in the opinion of this general assembly, an emergency for the immediate taking effect of this act, the same shall be in force from and after its passage, and publication in the Indiana State Journal, Indiana State Sentinel and Indiana Statesman.

Approved January 20, 1852.

AN ACT

AUTHORIZING RAIL-ROAD, PLANK ROAD, TURNPIKE ROAD AND MC ADAMIZED ROAD COMPANIES TO BORROW MONEY AND TO SECURE THE REPAYMENT THEREOF BY MORTGAGE.

Rail-Road companies, &c., may borrow money and issue bonds, &c., and may mortgage road or other property.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That each and every rail-road, plank road, McAdamized and turnpike road company heretofore incorporated or hereafter to be incorporated within this state, shall have full power and authority from time to time to borrow money upon its own credit at any rate of interest allowed by the law of the state where the loans may be negotiated or the money borrowed, to be agreed upon between the parties, for the sole purpose of constructing its road, and furnishing materials therefor, with all necessary machinery and fixtures necessary to carry on the operations of such company; and as an evidence of such loans, or for the purchase of materials and necessary machinery on time, may issue its corporate bonds or promissory notes; and to secure the repayment thereof, with the interest which shall accrue, may mortgage its road, income and other property, and may, by its president or other officer or agents, sell, dispose of or negotiate such bonds, notes or the stock of such company, at such times and at such places, either within or without this state, and at such rates and for such prices as, in the opinion of such company, will best advance its interests.

Sale of bonds, &c., at discount valid. Bonds, &c., convertible into stock.

SEC. 2. And if such bonds, notes or stock are thus sold at a discount, such sale shall be as valid and binding in every respect as if sold at their par value; and every such company is hereby authorized to confer upon the holder of any bond or note, sold or issued as aforesaid, the right to convert the principal thereof at any time until paid into the stock of such company.

SEC. 3. All such contracts, bonds, notes and mortgages made in pursuance of the foregoing provisions, shall be as valid and binding upon the parties thereto as if the same had been originally embodied in the several acts incorporating such companies: *Provided, however*, That this act shall not be so construed as to repeal, change or modify any similar provisions contained in any act incorporating any rail-road company, or any act amendatory thereof, or to restrict the provisions of any act of incorporation of any rail-road company, or any act amendatory thereof, which has enlarged rights, grants or privileges.

Contracts, &c., under this act, binding as if made under act of incorporation.

Proviso.

SEC. 4. It is hereby declared that an emergency exists for the immediate taking effect of this act; therefore, be it enacted, that this act shall take effect and be in force from and after its passage, and that the same be published in the Indiana Statesman, the Indiana State Journal and the Indiana State Sentinel.

This act, when to be in force.

Approved February 5, 1852.

AN ACT

TO PROVIDE FOR THE INCORPORATION OF RAIL-ROAD COMPANIES.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That any number of persons, not less than fifteen, being subscribers to the stock of any contemplated rail-road, may be formed into a corporation, for the purpose of constructing, owning and maintaining such rail-road, by complying with the following requirements:

Proceedings to form a corporation.

Whenever stock to the amount of at least fifty thousand dollars, or one thousand dollars for each and every mile of the proposed road shall have been subscribed, the subscribers to such stock shall elect directors for such company from their own number, and shall severally

subscribe articles of association, in which shall be set forth the name of the corporation, the amount of the capital stock of the company, (which may be increased from time to time, if necessary, to a sum equal to the actual cost of constructing the road, together with the cost of the right of way and motive power, together with all other appurtenances and expenses necessary for the completion and running of such road,) the number of shares of which said stock shall consist; the number of directors, and their names, to manage the affairs of the company; the name of the place from which and the place to which the proposed road is to be constructed, and each county into which or through which it is intended to pass, and its length as near as may be. Each subscriber to such articles of association shall state his place of residence, and the number of shares taken by him in such company.

Articles of association to be filed in the office of secretary of state

SEC. 2. Articles of association formed in pursuance of the provisions of the foregoing section, shall be filed in the office of the secretary of state; and thereupon the persons who shall have subscribed the same, and all persons who shall from time to time become stockholders in such company, and their successors, shall be a body politic and corporate, in perpetuity, by the name stated in such articles of association, and shall be capable of suing and being sued, and may have a common seal, and may make and alter the same at pleasure, and shall be capable in law of purchasing, holding and conveying any real and personal property whatever, necessary for the construction of such road, and for the erection of all necessary buildings and yards, and appurtenances for the use of the same. A copy of any articles of association, filed in pursuance of this act, and certified to be a copy, by the secretary of state or his deputy, shall, in all courts and places, be presumptive evidence of the incorporation of such company, and of the facts stated therein.

Opening of books.

SEC. 3. The directors named in the first section of this act shall open books for subscription to the capital stock

of the company, at such times and in such places as a majority of them may direct—due notices of which shall be given; and in case a greater amount of stock shall be subscribed than the whole capital required by such company, the directors shall distribute such capital stock so subscribed, as equally as possible among the subscribers; but no share thereof shall be divided in making such distribution, nor shall a greater number of shares be allotted to any one subscriber than by him subscribed for.

Annual meeting of stockholders, and notice thereof.

SEC. 4. There shall be an annual meeting of the stockholders, to be held in one of the counties in which or through which such road is proposed to be or may be constructed, for the election of directors to serve for the ensuing year—notice of which, appointing a time and place, shall be given by the directors, chosen as provided in the first section of this act, for the first annual election, and afterwards by their successors in office; which notice shall be published not less than twenty days previous thereto, in a newspaper published in each county through which such road shall be intended to run (if there be stockholders residing therein) in which a newspaper shall be published; and if no newspaper be published, then by six written or printed notices put up in the most public places in such county. Three judges of elections shall be chosen by the board of directors previous to any annual meeting of the stockholders, who shall be stockholders, but not directors, at the time of such elections, whose duty it shall be to receive the votes of the stockholders at such elections for directors, and who shall openly count the votes and declare the result, and shall furnish the directors elected at such meeting of the stockholders with a certificate of their election, which certificate shall be evidence of their authority to act as such directors. Not less than seven nor more than thirteen directors shall be chosen at such meeting of stockholders, by ballot, and by a majority of the votes of the stockholders being present in person or by proxy; and

every such stockholder being so present at any election for directors, shall be entitled to give one vote for every share of stock which he may have owned for ten days next preceding such election; but no stockholder shall vote at any such election upon any stock except such as he shall have owned for ten days. No person shall be a director unless he shall be a stockholder, owning stock absolutely in his own right, and qualified to vote for directors at the election at which he shall be chosen. The directors shall hold their office for one year, and until others are elected in their places.

Other meetings may be called.

SEC. 5. Meetings of the stockholders may be called at any time during the interval between the annual meetings by the directors, or by the stockholders owning not less than one-fourth of the stock, by giving thirty days' public notice of the time and place of the meetings, in the manner provided in the next preceding section for the annual meetings; and when any such meeting is called by the stockholders, the particular object of such meeting shall be stated in such notice; and if at any such meeting thus called, a majority in value of the stockholders are not represented in person or by proxy, such meeting shall be adjourned from day to day, not exceeding three days, without transacting any business; and if within said three days stockholders having a majority of the stock do not attend such meeting, then the meeting shall be dissolved.

Statement of affairs of company.

SEC. 6. At a regular meeting of the stockholders of any such corporation, it shall be the duty of the president and directors in office for the preceding year, to exhibit a clear and distinct statement of the affairs of said company, and at any meeting of the stockholders, a majority of those present, in person or by proxy, may require similar statements from the directors, whose duty it shall be to furnish them when thus required; and at all general meetings of the stockholders, a majority in value of the stockholders in such company may remove any president or any director of such company, and elect others in

their stead: *Provided*, Notice of such intended removal shall have been given as required in the two last preceding sections. Proviso.

Sec. 7. In case it shall happen, at any time, that an election of directors shall not be made on the day designated by the by-laws of the company, when it ought to have been made, the company, for that reason, shall not be dissolved, if, within ninety days thereafter, they shall hold an election for directors, in such manner as shall be provided by the by-laws of the company. There shall be a president of the company, who shall be chosen by and from the directors, and also such subordinate officers as the company, by its by-laws, may designate, who may be elected or appointed, and required to give such security for the faithful performance of the duties of their offices as the company by its by-laws may require: *Provided*, That nothing herein contained shall be so construed as to prevent the stockholders from removing a president, and electing another in his place in the manner prescribed in the last preceding section. Failure to elect directors not to dissolve company. President, how chosen. Proviso.

Sec. 8. It shall be lawful for the directors to call in and demand from the stockholders respectively, any sums of money by them subscribed, in such payments or instalments as the directors shall deem proper, under the penalty of forfeiting the shares of stock subscribed for, and all previous payments made thereon, if payment shall not be made by the stockholders within thirty days after personal demand or notice, requiring such payment, shall have been made in each county through which such road shall be laid out, in which a newspaper shall be published: *Provided*, That subscriptions shall not be required to be paid except in equal instalments of not more than ten per cent. a month. Money subscribed may be called in by directors. Proviso.

Sec. 9. The directors of such company shall have power to make by-laws for the management and disposition of stock, property and business affairs of such company, not inconsistent with the laws of this state, and prescribing the duties of officers, artificers and servants that may be By-laws.

employed, and for the appointment of all the officers for carrying on all the business within the object and purposes of such company.

Stock transferable.

SEC. 10. The stock of such company shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of the company; but no shares shall be transferable until all previous calls thereon shall have been fully paid in, or the shares shall have been forfeited for the non-payment of calls thereon.

Certificate of capital stock to be filed with the Secretary of State.

SEC. 11. The president and a majority of the directors, within thirty days after the payment of the last instalment of the capital stock, so fixed and limited by the company, shall make a certificate stating the amount of capital stock so fixed and paid in, which certificate shall be signed by the president and a majority of the directors, and sworn to by the president and secretary; and they shall, within the said thirty days, file and record the same in the office of the secretary of state.

Profile of route.

SEC. 12. Every such company, before proceeding to construct a part of their road into or through any county named in their articles of association, shall make a map and profile of the route intended to be adopted by such company; which shall be certified by a majority of the directors, and filed in the office of the clerk of such county, for the inspection and examination of all parties interested therein.

Powers of corporation.

SEC. 13. Every such corporation shall possess the general powers and be subject to the liabilities and restrictions expressed in the special powers following, that is to say:

First.—To cause such examination and surveys for the proposed rail-road to be made as may be necessary to the selection of the most advantageous route for the rail-road; and for such purposes, by their officers, agents and servants, to enter upon the lands or waters of any person, but subject to responsibility for all damages which they shall do thereto.

Second.—To receive, hold and take such voluntary

grants and donations of real estate and other personal property as shall be made to it, to aid in the construction, maintenance and accommodation of such rail-road; but the real estate thus received by voluntary grants shall be held and used for the purposes of such grants only.

Third.—To purchase, and, by voluntary grants and donations, receive and take, and by its officers, engineers and surveyors, and agents, enter upon and take possession of and hold, and use all such lands and real estate and other property as may be necessary for the construction and maintenance of its rail-road and stations, depots and other accommodations necessary to accomplish the objects for which the corporation is created; but not until the compensation to be made therefor, as agreed upon by the parties or ascertained as hereinafter prescribed, shall have been paid to the owner or owners thereof, or deposited as hereinafter directed, unless the consent of such owner be given to enter into possession.

Fourth.—To lay out its road, not exceeding six rods wide, and to construct the same: and for the purposes of cuttings, embankments and procuring stone and gravel, may take as much more land, within the limits of its charter, in the manner provided hereinafter, as may be necessary for the proper construction and security of the road.

Fifth.—To construct their road upon or across any stream of water, water-course, road, highway, rail-road or canal, so as not to interfere with the free use of the same, which the route of its road shall intersect, in such manner as to afford security for life and property; but the corporation shall restore the stream or water-course, road or highway thus intersected to its former state, or in a sufficient manner not to have unnecessarily impaired its usefulness or injured its franchises.

Sixth.—To cross, intersect, join and unite its rail-road [with any other rail-road] before constructed at any point on its route, and upon the grounds of such other rail-road company, with the necessary turn-outs, [sidings, and

switches and other conveniences,] in furtherance of the objects, of its connections; and every company whose rail-road is or shall be hereafter intersected by any new rail-road, shall unite with the owners of such new rail-road in forming such intersections and connections, and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor, or the points or manner of such crossings and connections, the same shall be ascertained and determined by commissioners, to be appointed as is provided hereinafter in respect to the taking of lands; but this section is not to affect the rights or franchises heretofore granted.

Seventh.—To purchase lands or take them; may change the line of its road whenever a majority of the directors shall so determine, as is provided hereinafter; but no such change shall vary the general route of such road.

Eighth.—To take, transport, carry and convey persons and property on their rail-road by the force and power of steam, of animals or any mechanical power, or by any combination of them; and receive tolls or compensation therefor.

Ninth.—To erect and maintain all necessary and convenient buildings, stations, depots, and fixtures, and machinery for the accommodation and use of their passengers, freight and business, and obtain and hold the lands necessary therefor.

Tenth.—To regulate the time and manner in which passengers and property shall be transported, and the tolls and compensation to be paid therefor.

Sec. 14. In case any company formed under this act is unable to agree for the purchase of any real estate, in any county, required for the construction of the track, turnouts and water stations, it shall have the right to acquire the title to the same in the manner and by the special proceedings prescribed in this act.

Sec. 15. Such company is hereby authorized to enter upon any land for the purpose of examining and survey-

ing its rail-road line, and may appropriate so much thereof as may be deemed necessary for its rail-road, including necessary side-tracks and water stations, materials for constructing, except timber, a right of way over adjacent lands, sufficient to enable such company to construct and repair its road, and a right to conduct water by aqueducts, and the right of making proper drains. The corporation shall forthwith deposit with the clerk of the circuit or other court of record of the county where the land lies, a description of the rights and interests intended to be appropriated, and such land, rights and interests shall belong to such company, to use for the purpose specified, by making or tendering payment as hereinafter provided. The corporation may, by its directors, purchase any such lands, materials, right of way or interest of the owner of such land; or, in case the same is owned by a person insane or an infant, at a price to be agreed upon by the regularly constituted guardian or parent of said insane person or infant, if the same shall be appraised by the court in which the description aforesaid shall be filed; and on such agreement and approval, the owner, guardian or parent, as the case may be, shall convey the said premises so purchased, in fee simple or otherwise, as the parties may agree, to such rail-road company; and the deed, when made, shall be deemed valid in law. If the corporation shall not agree with the owner of the land or with his guardian, if the owner is incapable of contracting touching the damages sustained by such appropriation, such corporation shall deliver to such owner or guardian, if within the county, a copy of such instrument of appropriation. If the owner, or his guardian, in case such owner is incapable of contracting, be unknown or do not reside within the county, such corporation shall publish, in some newspaper of general circulation in the county, for the term of three weeks, an advertisement, reciting the substance of such instrument of appropriation. Upon fixing such act of appropriation and delivery of such copy, or making such publication, the circuit court or

Appropriation of lands for use of road, and damages therefor.

other court of record in the county where the land lies, or any judge thereof in vacation, upon the application of either party, shall appoint by warrant three disinterested freeholders of such county to appraise the damages which the owner of the land may sustain by such appropriation; such appraisers shall be duly sworn; they shall consider the injury which such owner may sustain by reason of such rail-road, and shall forthwith return their assessment of damages to the clerk of such court, setting forth the value of the property taken, or injury done to the property, which they assess to the owner or owners separately, to be by him filed and recorded; and thereupon such corporation shall pay to said clerk the amount thus assessed, or tender the same to the party in whose favor the damages are awarded or assessed; and on making payment of tender thereof, in the manner herein required, it shall be lawful for such corporation to hold the interests in such lands or materials so appropriated, and the privilege of using any materials on said roadway within fifty feet on each side of the centre of such roadway, for the uses aforesaid. The cost of such award shall be paid by such company; and on notice by any party interested and showing said proceedings, the court may order payment thereof, and enforce such payment by execution. The award of said arbitrators may be reviewed by the circuit court or other court in which such proceedings may be had, on written exceptions filed by either party in the clerk's office within ten days after the filing of such award, and the court shall take such order therein as right and justice may require, by ordering a new appraise-

Proviso. ment on good cause shown: *Provided*, That notwithstanding such appeal, such company may take possession of the property therein described as aforesaid, and the subsequent proceedings on the appeal shall only affect the amount of compensation to be allowed; if prior to the assessment, the corporation shall tender to such owner, or his guardian, if he be unable to contract, an amount equal to the award afterwards made, exclusive of costs;

the costs of arbitration shall be paid equally by such company and such owner or guardian.

Money, how paid to claimants.

SEC. 16. If there are adverse or conflicting claimants to the money, or any part of it, to be paid as compensation for the real estate taken, the court may direct the money to be paid into the said court, by the company, or take security for the same until it can determine who is entitled to the same; and shall direct to whom the same shall be paid; and may, in its discretion, order a reference to ascertain the facts on which such determination and order are to be made.

Attorney for unknown parties.

SEC. 17. The court shall appoint some competent attorney to appear for and protect the rights of any party in interest who is unknown, or whose residence is unknown, and who has not appeared in the proceedings by an attorney or agent; the court shall also have power at any time to amend any defect or informality in any of the special proceedings authorized by this act, as may be necessary, or to cause new parties to be added, and to direct such further notice to be given to any party in interest as it deems proper, and also to appoint other commissioners in the place of any who shall die, or refuse or neglect, or are unable to serve, or who may leave or be absent from the state.

Defective title, possession, &c.

SEC. 18. At any time after an attempt to acquire title by appraisal of damages, or otherwise, if it shall be found that the title thereby attempted to be acquired is defective, the company may proceed anew to acquire or perfect the same, in the same manner as if no appraisal had been made; and at any stage of such new proceedings, the court may authorize the corporation, if in possession, to continue in possession, and if not in possession, to take possession of and use such real estate during the pendency and until the final conclusion of such new proceedings, and may stay all actions and proceedings against the company, or any officer, agent or workman of such company, on account thereof, on such company pay-

ing into court a sufficient sum, as the court may direct, to pay the compensation therefor, when finally ascertained; and in every such case the party interested in such real estate may conduct the proceedings to a conclusion, if the company delays or omits to prosecute the same.

May borrow money.

SEC. 19. Such company may from time to time borrow such sums of money as they may deem necessary for completing or operating their rail-road, and issue and dispose of their bonds for any amounts so borrowed, for such sums and at such rate of interest as is allowed by the laws of the state where such contract is made; and mortgage their corporate property and franchises to secure the payment of any debt contracted by such company; and the directors of the company may confer on any holder of any bond issued for money borrowed as aforesaid, the right to convert the principal due or owing thereon into stock of said company, at any time not exceeding fifteen years from the date of said bond, under such regulations as the company may adopt; and such company may sell their bonds either within or without this state, at such rates and prices as permitted by law; and such sales shall be as valid as if such bonds should be sold at par value.

Preferred stock.

SEC. 20. For the purpose of providing means for the payment of its debts and for the construction of its road, materials or equipments, such company may issue a preferred stock to an amount not exceeding one-half of the amount of its capital, with such priority over the remaining stock of such company, in the payment of dividends, as the directors of such company may determine, and shall be approved by a majority of the stockholders.

Line of road may be altered.

SEC. 21. If, at any time after the location of the track of such road, in whole or in part, and the filing of the map thereof, it shall appear to the directors of such company that the line thereof may be improved, such directors may from time to time, alter the line, and cause a new map to be filed in the office where the map showing the first location is filed, and may thereupon take posses-

sion of the lands embraced in such new location that may be required for the construction and maintenance of such road on such new line, either by agreement with the owner, or by such proceedings as are authorized under the preceding sections of this act, and use the same in place of the line for which the new is substituted. But nothing in this act shall be so construed as to confer upon any rail-road company already incorporated, any power to locate its road on any route which would not have been authorized by the charters previously granted; and nothing in this act contained shall authorize the said company to make a location of their track within any city without the consent of the common council of said city; nor shall the company have power so to change their road as to avoid any point named in their articles of association.

When track crosses highway.

SEC. 22. Whenever the track of such rail-road shall cross a road or highway, such road or highway may be carried under or over the track, as may be most expedient; and in cases where an embankment or cutting shall make a change in the line of such road or highway desirable, with a view to a more easy ascent or descent, the said company may take such additional lands for the construction of such road or highway, or such new line, as may be deemed requisite by said directors. Unless the lands so taken shall be purchased or voluntarily given for the purposes aforesaid, compensation therefor shall be ascertained in the manner in this act provided, as nearly as may be, and duly made by such corporation to the owners and persons interested in such lands: and the same, when so taken and compensation made, to become part of such intersecting road or highway, in such manner and by such terms as the adjacent parts of such highway may be held for highway purposes.

Lands belonging to the state, a county or town.

SEC. 23. If any corporation shall, for its purposes aforesaid, require any land belonging to the state, or to any county or town, the general assembly and the county and town officers respectively, having charge of such lands,

may grant such lands to such corporation upon such terms as shall be agreed upon; and if they shall not so agree, the same may be taken by the corporation in the same manner as provided in other cases. No rail-road shall be located upon or across the grounds of the state occupied by the institutions of the insane, blind or deaf and dumb.

Conductors, &c., to wear badge.

SEC. 24. Every conductor, baggage-master, engineer, brakeman or other servant of any such rail-road corporation, employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and the initial letters of the style of the corporation by which he is employed. No collector or conductor without such badge, shall demand or be entitled to receive from any passenger any fare, toll or ticket, or exercise any of the powers of his office; and no other of said officers or servants without such badge, shall have any authority to meddle or interfere with any passenger or property.

Annual report.

SEC. 25. Every such corporation shall make an annual report to the secretary of state, of the operations of the year ending on the first day of January; which report shall be verified by the oaths of the treasurer and acting superintendent of operations, and filed in his office by the tenth day of January in each year, and shall state—

First.—The capital stock and the amount actually paid in.

Second.—The amount expended for the purchase of lands for the construction of the road, for buildings, and for engines and cars respectively.

Third.—The amount and nature of its indebtedness, and the amounts due the corporation.

Fourth.—The amount received for the transportation of passengers, of property, of mails and from other sources.

Fifth. The amount of freight, specifying the quantity in tons, of the products of the forest, of animals, of vegetable food, other agricultural products, manufactures, merchandise and other articles.

Sixth.—The amount paid for repairs, engines, cars, buildings and salaries.

Seventh.—The number and amount of dividends, and when paid.

Eighth.—The number of engine houses and shops, of engines and cars, and their character.

Ninth.—The number of miles run by passenger, freight and other trains, respectively.

Lien upon rail-roads for taxes.

SEC. 26. The state shall have a lien upon all rail roads of such corporations, and their appurtenances and stock therein, for all penalties, taxes and dues which may accrue to the state from such corporations, which lien of the state shall have precedence of all demands, judgments or decrees against said corporations; and the citizens of this state shall have a lien upon all personal property of said corporations, to the amount of one hundred dollars, for all debts originally contracted within this state, which, after said lien of the state, shall take precedence of all other debts, demands, judgments or decrees, liens or mortgages against such corporations.

To convey U. S. mails.

SEC. 27. Any such corporation shall, when applied to by the postmaster-general, convey the mails of the United States on their road; and in case such corporation shall not agree to the rates of transportation thereof, and as to time, rate of speed, manner and condition of carrying the same, the governor of this state may appoint three commissioners, who, or a majority of them, after fifteen days' notice in writing of the time and place of meeting, to the corporation, shall determine and fix the prices, times and conditions aforesaid; but such prices shall not be less for conveying said mails in the regular passenger trains than the amount which said corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car. And in case the postmaster-general shall require the mail to be carried at other hours, and at a higher speed than the passenger trains are run, the

corporation shall furnish an extra train for the mail, and be allowed an extra compensation therefor.

SEC. 28. If any passenger shall refuse to pay his fare or toll, the conductor of the train and the servants of the corporation may put him out of the cars at any usual stopping place.

Cars to run regularly.

SEC. 29. Every such corporation shall start and run their cars for the transportation of persons and property at regular times, to be fixed by public notice, and shall furnish sufficient accommodation for the transportation of all such passengers and property as shall, within a reasonable time previous thereto, offer or be offered for transportation, at the place of starting, and the junctions of other rail-roads, and at siding and stopping places, established for receiving and discharging way passengers and freight, and shall take, transport and discharge such passengers and property at, from and to such places, on the due payment of tolls, freight or fare therefor.

Damages in case of refusal to take passengers, &c.

SEC. 30. In case of the refusal, by such corporations or their agents, so to take and transport any passenger or property, or to deliver the same at the regular appointed place, such corporation shall pay to the party aggrieved all damages which shall be sustained thereby, with costs of suit.

Passenger and freight trains to be separate.

SEC. 31. In forming a passenger train, baggage, or freight, or merchandise, or lumber cars shall not be placed in rear of passenger cars; and if they, or any of them shall be so placed, and any accident shall happen to life or limb, the officer or agent who so directed or knowingly suffered such arrangement, and the conductor or engineer of the train, shall each and all be held guilty of intentionally causing the injury, and be punished accordingly.

No damages for injuries to passengers violating rules.

SEC. 32. In case any passenger on any rail-road shall be injured on the platform of a car, or on any baggage, wood or freight car, in violation of the printed regulations of the company, posted up at the time in a conspicuous place inside of its passenger cars, then in the train, such

company shall not be liable for the injury: *Provided*, Said company at the time furnished room inside its passenger cars sufficient for the proper accommodation of its passengers.

Map and profile of road.

SEC. 33. Every corporation shall, within a reasonable time after their road shall be located, cause to be made,

First.—A map and profile thereof, and of the land taken and obtained for the use thereof, and file the same in the office of the secretary of state, and also like maps of the parts thereof located in different counties, and file the same in the office of the clerk of the county in which said parts of said road shall be, there to remain as of record forever.

Second.—A certificate specifying the line upon which it is proposed to construct the rail-road, and the grades and curves.

When act of incorporation to be void.

SEC. 34. If any such corporation shall not, within three years after its incorporation, begin the construction of its road, and expend thereon five per centum on the amount of its capital, and finish the road, and put it in full operation in ten years thereafter, its act of incorporation shall become void.

Companies may increase the amount of their capital stock.

SEC. 35. Rail-road companies may increase the amount of their capital stock by filing in the office of the secretary of state a certificate, stating the amount of such desired increase, and the reasons or necessity for the same, signed by the president and a majority of the directors, and attested by the secretary and seal of such company.

Existing companies may comply with this act.

SEC. 36. All existing rail-road companies may acquire all of the powers or benefits conferred by this act, by filing an acceptance thereof in the office of the secretary of state, properly attested as the corporate act of such company; and the acceptance of any part of this act shall be deemed and taken to be an acceptance of the whole act, and a surrender of the act under which such company may be organized; thereupon such company shall possess such powers, so accepted, and be subject to

the obligations and restrictions herein specified, as fully as they would have had and been if organized under this act.

SEC. 37. This act may be amended or repealed at the discretion of the legislature.

Individual liability.

SEC. 38. The stockholders shall be individually liable for all labor done in the construction of said road that shall remain unpaid after the assets of the corporation shall have been exhausted.

Approved May 11, 1852.

AN ACT

TO PREVENT THE DESTRUCTION OF, OR INJURY OF ANIMALS, AND THE DESTRUCTION OF HUMAN LIFE BY RAIL-ROADS, AND TO PROVIDE COMPENSATION FOR THE SAME.

Value of animals killed on rail-road, to be recovered without proof of negligence.

Repealed.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever any animal or animals shall be killed or injured by the cars or locomotives, or other carriages used on any rail-road in this state, the owner of such animal or animals may recover the value thereof in an action against said company, without proof of negligence or wilful misconduct on the part of officers or servants of such company.

Otherwise, if road be fenced.

Repealed.

SEC. 2. The preceding section shall not apply to any accident occurring on any portion of said road as may be securely fenced in, and such fence properly maintained by such company.

Damages to be recovered in case of death of any person from negligence, &c.

SEC. 3. Whenever any person shall die from any injury resulting from the negligence or unskilfulness of any of the officers or servants of any rail-road company in this state, or to the insufficiency of, or defect in, such road or bridges thereof, or the cars or locomotives thereon, such company shall be liable in damages to the wife, or if there be no wife, or if she shall fail for three months after

such death to prosecute, then to the minor child or children of such deceased; or if such deceased be a female, then to the husband, or if there be no husband, or he shall fail for three months to prosecute, then to the minor child or children of such deceased; or if such deceased be a minor, and unmarried, then to the father, or if there be no father, to the mother of such deceased.

Emergency.

SEC. 4. There being no laws now in existence authorizing actions in the preceding cases, it is declared that an emergency exists requiring the immediate taking effect of this law; and the same is declared to be in effect from and after its passage.

Approved May 11, 1852.

GENERAL PROVISIONS

IN RELATION TO RAIL-ROAD COMPANIES.

Union Roads.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be lawful for two or more rail-road companies, running rail-roads to the same town or city, to locate, construct, keep up, repair and use a common or union rail-road of one or more tracks, connecting the rail-roads of such companies for business purposes.

Name, &c., of such road to be recorded: powers of companies.

SEC. 2. Such companies as shall enter into such union arrangements, or may hereafter enter into the same, for the purpose of constructing such union roads, shall, by resolution of their respective boards, adopt a name therefor; and shall cause such name, with the length and termini thereof to be recorded in the recorder's office of the county in which such union road may be located; and thereafter such companies may contract and be contracted with, sue and be sued for any matters relating to such union road by such name, and shall have full power by such organization to locate, construct, keep up, change and repair such union road, and to take releases of the

right of way, and to condemn so much land as may be necessary for the construction of such union road, and to use and regulate the same.

Presidents of companies to be board for such road. Powers of board.

SEC. 3. The presidents of all the rail-road companies entering into such union arrangements as are hereinbefore provided, shall *ex officio* form the union boards for the transaction of all matters relating to such union roads. They shall keep a record of their proceedings, which shall at all times be open to the examination of the stockholders and directors of such companies. They shall have power in the name of such union road to pass all by-laws, not inconsistent with the charters or laws organizing their several roads, for the government of such boards, and the regulation of such union roads, and the business thereof.

Condemnation of right of way.

SEC. 4. Whenever it shall become necessary to condemn the right of way for the use of such union roads, the same may be done in the name of such union boards, under the provisions of any of the charters of the companies or laws under which they were organized, forming such union roads: *Provided*, That in estimating damages for such right of way, the advantages to such person or persons owning the property sought to be condemned, by the construction of such road or roads, shall not be taken into consideration.

Proviso.

Companies jointly liable.

SEC. 5. Such union companies, when so formed, shall be jointly liable to the public; and all persons contracting with the union boards, for all contracts and damages, and as between themselves, shall be liable in the proportion of the interests of each company in the union road or property.

Other companies may enter into union.

SEC. 6. It may be lawful for any other rail-road company not originally concerned in the formation or construction of such union roads, to thereafter enter and take such an interest in the same, in such manner and upon such terms as may be agreed upon by the parties; and companies so entering into such union shall have all the rights and privileges conferred thereon, by the provisions of this act.

What laws applicable to union roads.

SEC. 7. All laws in force in this state, or which may be hereafter in force for the protection of rail-roads, all the property of rail-road companies, and the charters of the several companies or laws organizing the same, entering into such union arrangements, shall be applicable to such union roads as may be or shall have been constructed under this act.

Bridging navigable streams.

Proviso.

SEC. 8. All rail-road companies, incorporated under any law of this state, who are authorized to construct their roads to points beyond any navigable stream, are hereby authorized to cross such streams upon bridges: *Provided*, Such bridges do not obstruct the free navigation thereof: *And provided, further*, That all rail-road companies are hereby prohibited from charging or receiving tolls from persons who may cross on any bridge erected by any such company over any stream, over which any toll-bridge has been erected, or ferry established within eighty rods of the place at which such rail-road bridge has been or may be hereafter erected.

Company may fix the number of its directors.

SEC. 9. It shall be lawful for any rail-road company, at a regular or called meeting of the stockholders thereof, by a majority vote in interest represented at such meeting, either in person or by proxy, to determine the number of directors of such company, and reduce the number to not less than seven, or increase the same to not more than thirteen, as such meeting shall deem proper; the proceedings of such meeting shall be certified by three or more stockholders present, to the secretary of such company, who shall record the same in the proper books of the company, and thereafter the number of directors shall be the number fixed upon by resolution of such meeting.

Individual liability of stockholders.

SEC. 10. The stockholders of the several companies that shall avail themselves of the benefits of this act, shall be individually liable for all debts due for labor done on such union tracks or depots, that shall not be paid for by their respective companies in their corporate capacity when due.

SEC. 11. At least thirty days' notice shall be given in the manner required by the law under which such company was organized, for the election of directors thereof, of a meeting of the stockholders to take into consideration the propriety of reducing or otherwise changing the number of directors in such company, and to make such reduction or change if it shall be adjudged the interests of the company require it.

Approved June 15, 1852.

AN ACT

TO AUTHORIZE RAIL-ROAD COMPANIES TO INCREASE THE AMOUNT OF THEIR CAPITAL STOCK AND TO INCREASE THE NUMBER OF THEIR DIRECTORS.

How company may increase stock.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever any rail-road company which may have been incorporated with a fixed amount or limitation of capital, or which may hereafter be organized, shall find it necessary to increase the same for the building, repair, equipment or conducting of their road, it shall be lawful for such company, by a vote of its board of directors, from time to time, to increase their capital stock to any amount by said board of directors deemed necessary, not to exceed the sum of $15,000 a mile exclusively for rail-road purposes, inclusive of their original capital, for the purposes aforesaid.

May determine number of directors.

SEC. 2. The stockholders of any rail-road company heretofore incorporated in this state, or that may be hereafter incorporated, may, by the vote of a majority in interest of the stockholders of such company, at any annual or other meeting thereof, determine that the directors of said company shall consist of any number, not less than five nor more than thirteen, who shall be chosen from any of the stockholders; and thereafter such company

may elect from any of their stockholders the number of directors they have fixed and determined upon as aforesaid, in the same manner and with the same effect as if this section was contained in the original act incorporating such company.

Approved June 17, 1852.

AN ACT

TO AUTHORIZE TWO OR MORE RAIL-ROAD COMPANIES TO ASSUME A COMMON NAME, AND TO SUE AND BE SUED, CONTRACT AND BE CONTRACTED WITH, AND PROSECUTE THEIR BUSINESS UNDER SUCH COMMON NAME.

How two or more rail-road companies may assume a common name.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever two or more rail-road companies have heretofore become associated, or shall hereafter become associated in jointly making or running their roads under any contracts formed or to be formed by such companies, and desire to assume one common name, it shall and may be lawful for such companies, by resolution of their respective boards of directors, entered upon their records, to adopt such name as shall be agreed upon.

Record of resolution.

SEC. 2. It shall be the duty of said companies, upon the adoption of such common name, to cause a copy of the resolution of such boards to be recorded in the recorder's office of the different counties through which the road of said companies may run or be located; and thereafter, during the term of such association, such companies may have and use a common seal, contract and be contracted with, sue and be sued by such adopted name, in any and all matters relating to such union road, and shall have full power by such association to locate, construct, keep up, change, repair and operate such union road, as by their respective charters and amendments to such char-

May sue and be sued.

Proviso. ters they are allowed to do: *Provided, however*, That nothing herein contained shall be construed to abridge such companies of any of the powers and franchises belonging to them by their respective acts of incorporation and amendments to such acts: *And provided, further*, That nothing herein contained shall be construed to prevent said companies from sueing and being sued in their original corporate names, for all rights accrued and for all liabilities incurred before the adoption of such common name.

Emergency. SEC. 3. It is hereby declared that an emergency exists for the immediate taking effect of this act; therefore, be it further enacted, that this act shall take effect and be in force from and after its passage.

Approved January 25, 1853.

AN ACT

TO AUTHORIZE RAIL-ROAD COMPANIES TO CONSOLIDATE THEIR STOCK WITH THE STOCK OF RAIL-ROAD COMPANIES IN THIS OR IN AN ADJOINING STATE, AND TO CONNECT THEIR ROADS WITH THE ROADS OF SAID COMPANIES, AND TO AUTHORIZE RAIL-ROAD COMPANIES TO CONSTRUCT THEIR ROADS ON THE ROUTES WHICH THEY MAY HAVE HERETOFORE SURVEYED AND LOCATED, AND TO USE AND OCCUPY THE SAME WHEN COMPLETED.

Companies may consolidate with other companies in or out of the state. SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That any rail-road company heretofore organized, under the general or special laws of the state, shall have the power to intersect, join and unite their rail-road with any other rail-road constructed or in progress of construction in this state, or in any adjoining state, at such point on the state line, or at any other point as may be mutually agreed upon by said companies; and such rail-road companies are authorized to

merge and consolidate the stock of the respective companies, making one joint-stock company of the two rail-roads thus connected, upon such terms as may be by them mutually agreed upon, in accordance with the laws of the adjoining state with whose road or roads connections are thus formed: *Provided*, Their charters authorize said rail-road to go to the state line, or to such point of intersection. Proviso.

Extension of rail-roads through other states.

SEC. 2. That any rail-road company heretofore organized, or which may hereafter be organized under the general or special laws of this state, for the purpose of constructing a rail-road from any point within this state to the boundary line thereof, is hereby empowered to extend said rail-road into or through any other state or states, under such regulations as may be prescribed by the laws of such state or states, into or through which said road may be so extended, and the rights and privileges of said company over said extension in the construction and use of said rail-road, for the benefit of such company in controlling and applying the assets of such company, shall be the same as if their rail-roads had been constructed wholly within the state.

Power to connect and contract with rail-roads of other states.

SEC. 3. That any rail-road company heretofore organized, or which may hereafter be organized under the general or special laws of this state, and which may have constructed or commenced the construction of their road so as to meet and connect with any other rail-road in an adjoining state at the boundary line of this state, shall have the power to make such contracts and agreements with any such road constructed in an adjoining state, for the transportation of freight and passengers, or for the use of its said road, as to the board of directors may seem proper.

Privileges not forfeited.

SEC. 4. No rail-road company, incorporated or organized by special charter, or under a general law, shall incur a forfeiture of any of its corporate privileges by reason of its having heretofore failed to elect directors within the time prescribed by its charter or said law, or on account

of a misnomer of said company in any publication of notice, or for a failure to complete the work within the designated period; but all said companies, so incorporated as aforesaid, shall have full power and lawful authority to

Power to complete within five years.

construct and complete, within five years herefrom, their roads over the routes which they may have hitherto respectively surveyed and located; and whenever any rail-road company shall have surveyed and located a route for a road, and commenced the construction of the same, they shall have full right and authority to complete said

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road, and to use and occupy the same: *Provided*, That nothing herein contained shall be construed to extend to any companies, under special charters, except such as are now organized and have actually constructed some portion of said rail-road.

Prohibition in a certain case.

SEC. 5. *It is provided, however*, and is hereby expressly declared, that no rail-road company incorporated in this state, the terminus of whose road is at or within two miles of any city or towns on the Ohio river, shall consolidate its stock with that of any other company on the opposite side of said river, nor shall run or construct its road along or across the streets of said town or city, without the consent of the corporate authorities of said town

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or city being in each case thereunto obtained: *Provided*, That this proviso shall not apply to or affect in any manner whatever, the rights or liabilities of any company constructing any road whose terminus is a city or town situate within two miles of the line between this state and the state of Ohio.

Not to repeal certain act.

SEC. 6. Nothing in this act shall be construed to repeal or affect, in any manner whatever, the provisions of an act entitled "An act supplemental to an act entitled an act to provide for the incorporation of rail-road companies," approved June 13, 1852.

Emergency.

SEC. 7. Whereas an emergency exists for the passage of this act, the same shall take effect and be in force from and after its passage.

Approved February 23, 1853.

AN ACT

TO PROVIDE COMPENSATION TO THE OWNERS OF ANIMALS KILLED OR INJURED BY THE CARS, LOCOMOTIVES OR OTHER CARRIAGES OF ANY RAIL-ROAD COMPANY IN THIS STATE.

Owner may file complaint when animals are killed by cars or locomotives.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever any animal or animals shall be killed or injured by the cars, locomotives or other carriages used on any rail-road in this state, the owner thereof may go before some justice of the peace of the county in which such injury occurred, and file his complaint in writing, and such justice shall fix a day to hear said complaint, and shall cause at least ten days' notice to be served on the rail-road company defendant, by service of summons by copy on any conductor of any train passing through said county.

Service of summons.

Plaintiff to recover the value of the animal without regard to the proof of negligence.

SEC. 2. On the hearing of said cause, the justice or jury trying the same shall give judgment for the plaintiff for the value of the animal destroyed or injury inflicted, without regard to the question whether such injury or destruction was the result of wilful misconduct or negligence, or the result of unavoidable accident.

Appeal—docket fee.

SEC. 3. If the defendant shall appeal from such judgment, and shall not reduce the damages assessed twenty per cent., the appellate court shall give judgment for double the amount of damages assessed in such appellate court, and a docket fee of five dollars.

Not to apply to rail-roads securely fenced in.

SEC. 4. This act shall not apply to any rail-road securely fenced in, and such fence properly maintained by such company.

Repeal.

SEC. 5. Sections one and two of an act entitled "An act to prevent the destruction or injury of animals and the destruction of human life by rail-roads, and to provide compensation for the same," approved May 11,

Not to affect former actions.

1852, are hereby repealed, but such repeal shall not affect any action instituted to recover damages by virtue of said sections.

Approved March 1, 1853.

AN ACT

PROVIDING FOR SERVING PROCESS UPON THE OFFICERS, DIRECTORS, ATTORNEYS OR AGENTS OF ANY RAIL-ROAD COMPANY.

Upon whom process may be served.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That all writs, warrants or other process issued or to be issued from any court of competent jurisdiction in this state against the president of any rail-road company, whose principal office is not within this state, may be served upon any officer, director, attorney or general agent of said company, and such service shall be as binding and of the same effect as if the same had been served upon the president of the company: *Provided, however*, that process shall not be served upon any officer, director, attorney or general agent, who may be plaintiff in the suit, or who may have any interest therein against such company: *Provided, further*, That at least thirty days' notice shall be given of the time and place of the pendency of said suit.

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Repeal.

SEC. 2. All laws and parts of laws coming in conflict with the provisions of this act be, and the same are hereby repealed.

Emergency.

SEC. 3. It is hereby declared that an emergency exists for the immediate taking effect of this act, and that it shall take effect and be in force from and after its passage and publication in the Daily Indiana State Sentinel and Daily Indiana State Journal.*

Approved March 4, 1853.

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* Published in the Daily Indiana State Sentinel, March 22, 1853; and in the Daily Indiana State Journal, March 25, 1853.

AN ACT

TO EXPLAIN AN ACT ENTITLED "AN ACT AUTHORIZING RAIL-ROAD COMPANIES TO CONSOLIDATE THEIR STOCK WITH THE STOCK OF RAIL-ROAD COMPANIES IN THIS OR AN ADJOINING STATE, AND TO CONNECT THEIR ROADS WITH ROADS OF SAID COMPANIES, AND TO AUTHORIZE RAIL-ROAD COMPANIES TO CONSTRUCT THEIR ROADS ON THE ROUTES WHICH THEY MAY HAVE HERETOFORE SURVEYED AND LOCATED, AND TO USE AND OCCUPY THE SAME WHEN COMPLETED," APPROVED FEBRUARY 23, 1853.

Act to apply to companies heretofore organized.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the provisions of the first section of the act above recited were intended to apply to rail-roads hereafter organized as well as to those heretofore organized; and it shall and may be lawful for rail-road companies hereafter organized under the laws of this or any adjoining state, as well as those heretofore organized, to consolidate and make their stock joint stock with any other rail-road company heretofore or hereafter organized as aforesaid, on the terms and conditions and subject to all the restrictions as stated in said act.

Emergency.

SEC. 2. Whereas, an emergency exists for the passage of this act, the same shall take effect and be in force from and after its passage.

Approved March 4, 1853.

AN ACT

AUTHORIZING CORPORATIONS FORMED IN PURSUANCE OF AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE INCORPORATION OF RAIL-ROAD COMPANIES," APPROVED MAY 11, 1852, TO FILE IN THE OFFICE OF THE SECRETARY OF STATE A CERTIFIED COPY OF THEIR ARTICLES OF ASSOCIATION, IN LIEU OF THEIR ORIGINAL ARTICLES OF ASSOCIATION, AND LEGALIZING THE ACTION OF SUCH CORPORATIONS IN THAT RESPECT WHERE SUCH CERTIFIED COPY HAS BEEN HERETOFORE SO FILED IN LIEU OF THE ORIGINAL ARTICLES, AND PRESCRIBING THE EFFECT OF SUCH COPY.

Certified copy of articles may be filed, and the original retained.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter it shall not be necessary for any association or corporation, formed for the purpose of constructing, owning and maintaining a rail-road, in pursuance of an act entitled "an act to provide for the incorporation of rail-road companies," approved May 11, 1852, to file their articles of association in the office of the secretary of state, but a copy of such articles, duly certified by the officers or persons duly authorized of such association or corporation, may be so filed, and the original retained in the possession of such corporation.

Copies heretofore filed legalized.

SEC. 2. Whenever any association or corporation formed under the provisions of said act have heretofore filed in the office of the secretary of state a copy of the original articles of association in lieu of such original articles, the action of such corporation in the premises is hereby legalized, and the same effect is hereby given to such copy as if the provisions of section two of the aforesaid act had been strictly complied with: *Provided, however*, Such corporation shall, within six months after the taking effect of this act, authenticate the copy so filed by a proper certificate, or file in the office of the secretary of

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state in lieu of the copy heretofore filed, another copy of such original articles of association, duly certified and authenticated by the proper officer or officers of such corporation.

Approved March 4, 1853.

AN ACT

TO INCORPORATE THE ERIE AND KALAMAZOO RAIL-ROAD COMPANY.

SEC. 1. *Be it enacted by the Legislative Council of the Territory of Michigan*, That Stephen B. Comstock, Benjamin F. Stickney, David White, Caius C. Robinson, Darius Comstock, Asahel Finch, E. Conant Winter, Seth Dunham, Silas A. Holbrook, Stephen Vickery and Edward H. Lathrop, be, and they are hereby appointed commissioners, under the direction of a majority of whom subscriptions may be received to the capital stock of the Erie and Kalamazoo Rail-Road Company, hereby incorporated; and they may cause books to be opened at such times and places as they shall direct, for the purpose of receiving subscriptions to the capital stock of said company, first giving reasonable notice of the times and places of taking such subscriptions. Commissioners.

SEC. 2. That the capital stock of the said Erie and Kalamazoo Rail-Road Company shall be one million of dollars, in shares of fifty dollars each; and that as soon as one thousand shares of said stock shall be subscribed, the subscribers of said stock, with such other persons as shall associate with them for that purpose, their successors and assigns, shall be, and they are hereby created a body corporate and politic, by the name and style of "The Erie and Kalamazoo Rail-Road Company," with perpetual succession, and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying Capital stock

Incorporation.

estate, either real, personal or mixed, so far as the same may be necessary for the purposes hereinafter mentioned, and no further; and in their corporate name may sue and be sued, may have a common seal, which they may alter and renew at pleasure, and shall have, enjoy, and may exercise all the powers, rights and privileges which appertain to corporate bodies for the purposes mentioned in this act.

To construct road.

SEC. 3. Said corporation, hereby created, shall have power to construct a rail-road, with a single or double track, from Port Lawrence, through, or as near as practicable, to the village of Adrian, and thence on the most eligible route to such point on the Kalamazoo river as they may deem most proper and needful, with power to transport, take and carry property and persons upon the same, by the power and force of steam, of animals, or of any mechanical or other power, or of any combination of them.

Time for, &c.

SEC. 4.* If said corporation shall not, within three years from the passage of this act, commence the construction of said rail-road, and shall not within six years from the passage of this act, construct, finish and put in operation the said rail-road from Port Lawrence to the village of Adrian, and shall not within fifteen years from the passage of this act, construct, finish and put in operation one half of the said rail-road, and shall not within thirty years from the passage of this act, complete and put in operation the whole of the said rail-road, or in the event of the failure of the company to construct the parts of the said rail-road within either of the times above mentioned, then the rights, privileges and powers of said corporation, under this act, shall be null and void, as to said parts of the said rail-road which are not finished within the times limited by this act, and to them only. The said company shall make returns to the governor, to be laid before the legislature annually by the president, and on

Annual returns.

*Altered May 18, 1846.

the oath of the president or treasurer, with a statement of the receipts and expenditures upon the said rail-road, together with the cost thereof; and if at any time on such return, the amount divided from the part of said rail-road completed, over and above all repair, shall exceed fourteen per cent. on the capital stock paid in, and equal interest from the time of payment, then it shall be the duty of said company to complete the next adjoining section within five years after making such return, or on failure thereof, to pay all surplus moneys arising from the road so completed, over and above the said fourteen per cent., and the cost of all repairs, into the treasury of the territory.

First meeting.

SEC. 5. That whenever one thousand shares of the aforesaid stock shall have been subscribed, if within three years after the passage of this act, the commissioners shall call a general meeting of the subscribers, at such time and place as they may appoint, by giving sixty days' public notice of such meeting; and at such meeting the commissioners shall lay the subscription books before the subscribers then and there present, and thereupon the subscribers or stockholders, or a majority of them, shall elect nine directors by ballot, a majority of whom shall be competent to manage the affairs of the said company; they shall have the power of electing a president of the said company, either from amongst the directors or stockholders; and in said election, and on every occasion, wherein a vote of the stockholders is to be taken, every share shall entitle the holder thereof to one vote; and every stockholder may vote by himself or proxy.

Nine directors.

President.

Proxies.

Annual elections.

SEC. 6. That to continue the succession of president and directors of said company, nine directors shall be chosen annually, on the first Monday in October, at such place as may be appointed by the directors; and if any vacancy shall occur by death, resignation or otherwise, of any president or director, before the year for which he was elected shall have expired, a person to fill such va-

Vacancies.

cant place for the residue of the year may be appointed by the directors of said company, or a majority of them; the directors of the company shall hold and exercise their offices until a new election of president and directors. All elections which are by this act, or by the by-laws of the company, to be made on any particular day, if not made on such a day, may be made at any time within thirty days thereafter, by giving notice thereof.

Annual meetings.

SEC. 7. That a general meeting of the stockholders of said company shall be held annually, at the time and place appointed for the appointment of president and directors; and a meeting may be called at any time during the interval between said annual meetings, by the president and directors, or by the stockholders owning not less than one-fourth of the whole stock, by giving thirty days public notice of the time and place of meeting; and when any such meetings are called by the stockholders, the notice shall specify the particular object of the call; and if at any meeting thus called, a majority in value of the stockholders are not present in person or by proxy, such meeting shall be adjourned from day to day, not exceeding three days, without transacting any business; and if within said three days, stockholders having a majority of the stock do not attend such meeting, then the same shall be dissolved.

Special meetings.

Annual statement; stockholders.

SEC. 8. That at the regular annual meetings of the stockholders of said company, it shall be the duty of the president and directors in office for the preceding year, to exhibit a clear and distinct statement of the affairs of the company; and at any called meeting of the stockholders, a majority of those present in person or by proxy, may require similar statements from the president and directors, whose duty it shall be to furnish them when thus required; and at all the general meetings of the stockholders, a majority in value of all the stockholders in said company may remove from office any president, or any of the directors of said company, and may appoint others in their stead.

Remove directors.

Oath.

SEC. 9. That every president and director of said company, before he acts as such, shall swear or affirm that he will well and truly discharge the duties of his office to the best of his skill and judgment.

Power of directors.

SEC. 10. That the said president and directors, or a majority of them, shall have power to appoint, contract with and determine the compensation of all such officers, engineers, agents or servants whatsoever, as they may deem necessary for the transaction of the business of the company, and remove them at pleasure; and the said president and directors, or a majority of them, shall have the power of determining the manner of adjusting and settling all accounts against the company; and also the manner and evidence of transfers of stock in said company, and they shall have power to pass all by-laws which they may deem necessary for carrying into execution all the powers vested in the company hereby incorporated: *Provided*, Such by-laws shall not be contrary to the constitution or laws of the United States, or the laws of this territory.

By-laws.

Power to make road.

SEC. 11. That the president and directors of said company shall be, and they are hereby invested with all the privileges, rights and powers necessary for the location, construction and keeping in repair of said rail-road, not exceeding one hundred feet in width; and the said president and directors, or their agents, or those with whom they may contract for making said road, or any part of it, may enter upon, use and excavate any land, which may be wanted for the site of said rail-road, or any other purpose, which is necessary in the construction or repair of said road or its works, so soon as the amount is ascertained and tendered, as hereinafter provided.

Contract for land, &c.

SEC. 12. That the president and directors of said company may agree with the owner or owners of any land, earth, timber, gravel, stone or other materials, or any articles whatever, which may be wanted in the construction or repair of said road, or any of its works, for the purchase or occupation of the same; and if such ma-

terials (not previously taken or appropriated by the owner to any particular use) as may be necessary for the construction or repair of said rail-road, be found on any unimproved land adjoining to or near the same, and if the parties cannot agree, or if the owner or owners of any of them be a *feme covert*, under age, *non compos mentis*, or out of the county in which the property wanted may lie, application may be made to any justice of the peace of such county, who will thereupon issue his warrant, under his hand and seal, directed to the sheriff of said county; or if the sheriff be interested, to some disinterested person, requiring him to summon a jury of twelve freeholders in the county, not in any way interested in the matter or related to the parties, to meet on or near the property or materials to be valued, on a day named in said warrant, not less than five nor more than ten days after the issuing of the same; and if at the said time and place any of the persons summoned do not attend, the said sheriff or summoner shall immediately summon as many as may be necessary, with the persons in attendance as jurors, to furnish a pannel of twelve jurors, and from them each party, or his, her or their agent or attorney, or if either be not present in person or by agent, the sheriff or summoner for him, her or them, may strike off three jurors, and the remaining persons shall act as a jury of inquest of damages; and before they act as such, the sheriff or summoner shall administer to each of them an oath or affirmation, that they will justly and impartially value the damages which the owner or owners will sustain by the use or occupation of the land, materials or property required by said company; and the said jury shall reduce their inquisition to writing, and shall sign and seal the same, and it shall then be sent to the clerk of the circuit court of said county, and by said clerk filed in his office, and shall be confirmed by said court at its next session, if no sufficient cause to the contrary be shown; and when confirmed, the same shall be recorded by said clerk, at the expense of said company; but if set aside,

Jury in case, &c.

Oath.

Inquisition.

said court may direct another inquisition to be taken, in manner above prescribed: said inquisition shall describe the property taken, or the bound of the land condemned; such valuation, when paid or tendered to the owner or owners of said property, his, her or their legal representative, shall entitle said company to the estate and interest in the same thus valued, as fully as if it had been conveyed by the owner or owners of the same, for such term of time as the said company shall occupy the same for a rail-road; and if the valuation be not received when tendered, it may at any time thereafter be received from the company without costs; and the sheriff or summoner and jurors shall be allowed the ordinary fees for like services, to be taxed by the court, and to be paid by the company, or by the owner, or by both, in such proportion as the court may direct. Fees.

Sec. 13. That whenever, in the construction of said rail-road, it shall be necessary to cross or intersect any established road, it shall be the duty of said president and directors so to construct the said rail-road across such established road as not to impede the passage or transportation of persons or property along the same; or when it shall be necessary to construct it through the land of any individual, it shall be their duty to provide for such individual proper wagon-ways across said road from one part of his land to another. Highways. Private ways.

Sec. 14. That if said company shall neglect to provide proper wagon-ways across said road, as required by the preceding section of this act, it shall be lawful for any individual to sue said company, and he or she shall be entitled to such damages as a jury may think him or her entitled to, for such neglect or refusal on the part of said company. Damages.

Sec. 15. That if it shall be necessary for the said rail-road company, in the selection of the route or the construction of said road, to be by them laid out and constructed, or any part of it, to connect the same with any turnpike road or bridge made or erected by an incorpo- Contract to use turnpike or bridges.

rated company, or authorized by the law of this territory, it shall be lawful for said president and directors to contract with any other corporation for the right to use such road or bridge, or for the transfer of any of the corporate or other rights and privileges of such corporation, to the said company hereby incorporated; and every such other incorporation acting under the laws of this territory, is hereby authorized to make such contract or transfer by and through the agency of the person authorized by the respective acts of incorporation to exercise their corporate powers, or by any persons which are by any law of this territory entrusted with the management and direction of any turnpike road or bridge, or any of the privileges aforesaid; every contract or transfer made in pursuance of the power and authority hereby granted, when executed by the several parties, under their respective corporate seals, shall vest in the company hereby incorporated all such rights and privileges, and the right to use and enjoy the same as fully as they are now used and enjoyed by the said corporation in whom they are now vested.

Sec. 16. That the said president and directors shall have power to purchase, with the funds of the company, and place on any rail-road constructed by them under this act, all machinery, wagons, carriages or vehicles of any description, which they may deem necessary or proper for the purpose of transportation on said road; and that they shall have power to charge for tolls and transportation, such sums as shall be established by the by-laws of the company hereby incorporated;* and it shall not be lawful for any other company, or any person or persons, to transport any passengers, merchandise or property of any description whatever along said road, or any part of it, without the license or permission of the said president and directors of said company, and the said road, with all the improvements, works and profits,

Tolls.

* Altered May 18, 1846.

and all machinery used on said road for transportation, are hereby vested in said company incorporated by this act, and their successors forever; and the shares of the capital stock of said company shall be considered personal property, and shall be transferable agreeably to the by-laws of said company, and subject to be taken on execution agreeably to such laws as are or may hereafter be in force. Shares personal property.

SEC. 17. The said president and directors shall annually, or semi-annually, declare and make such dividend as they may deem proper, of the net profits from the resources of said company, deducting the necessary current expenses; and they shall make the dividend among the stockholders of said company, in proper proportions to their respective shares. Dividend.

SEC. 18. That if any person or persons shall wilfully, knowingly and maliciously, by any means whatever, injure, impair or destroy any part of the rail-road constructed by said company under this act, or any of the necessary works, buildings or machinery of said company, such person or persons so offending shall each of them, for every such offence, forfeit and pay to said company a sum not exceeding three times the amount of damages caused by such offence, which may be recovered in the name of the said company, by an action of debt, in any court having competent jurisdiction in the county wherein the offence shall be committed, and shall also be subject to an indictment, and upon conviction of such offence, shall be punished by fine and imprisonment at the discretion of the court. Wilful trespasses.

SEC. 19.* The right and privilege is hereby reserved to the territory, or any company hereafter to be incorporated under the authority of this territory, to connect with the road hereby provided for, any other rail-road leading from the main route to any part or parts of the territory: *Provided*, That in forming such connection, no Connection of other rail-roads.

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* Repealed.

injury shall be done to the works of the company hereby incorporated: *Provided, further*, That the said company or companies so connecting, may have the free use of said road by paying such a tariff of tolls as may be established by the legislature; and this corporation shall be entitled to the same rights and privileges to any and all roads hereafter connected.

Territory purchase road.

SEC. 20. That the territory shall have the right, at any time after the expiration of twenty years from the completion of said rail-road, to purchase and hold the same for the use of the territory at a price not exceeding the original cost of said road, and fourteen per cent. thereon, of which cost an accurate account shall be kept and submitted to the legislature, duly attested by the oath or affirmation of the officers of said company, whenever and as often as said legislature shall require the same.

SEC. 21. This act shall be favorably construed to effect the purposes thereby intended; and the same is hereby declared to be a public act, and copies thereof, printed by the authority of the territory, shall be received as evidence thereof.

Approved April 22, 1833.

EXTRACT

FROM AN ACT "TO AMEND AN ACT ENTITLED AN ACT TO INCORPORATE THE ERIE AND KALAMAZOO RAIL-ROAD COMPANY." (BANK ACT, PASSED MARCH 26, 1835.)

SEC. 18. That it shall be the duty of the president and directors to report annually to the legislature of the territory or state of Michigan, the true state and condition of said rail-road; and whenever the net proceeds of said road shall have paid the cost of erecting the same, and expenses in keeping the same in repair and operation, and seven per centage on all moneys so expended as aforesaid,

the said road shall become the property of the territory or state, and shall become a free road, except sufficient toll to keep the same in repair, and after such period said bank shall be a separate and distinct institution.

AN ACT

TO AUTHORIZE THE SALE OF THE SOUTHERN RAIL-ROAD, AND TO INCORPORATE THE MICHIGAN SOUTHERN RAIL-ROAD COMPANY.

Incorporation.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Michigan*, That James J. Godfroy, Samuel J. Holley, Harry V. Man, Charles Noble, George W. Strong, Austin E. Wing, Henry Waldron, Stillman Blanchard, Frederick W. Macy, John Burch, Dan B Miller, Benjamin F. Fifield, William C. Sterling, Wedworth Wadsworth, Edward Bronson, Daniel S. Bacon, Thomas G. Cole, and such other persons as shall associate with them for that purpose, are hereby made and constituted a body corporate and politic, by the name and style of "The Michigan Southern Rail-Road Company," with perpetual succession, and by that name shall be capable in law of taking, purchasing, holding, leasing, selling and conveying estates and property, whether real, personal or mixed, so far as the same may be necessary for the purposes hereinafter mentioned, and no further; and in their corporate name they may sue and be sued; may have a common seal, which they may alter and renew at pleasure, and may have and exercise all powers, rights, privileges and immunities which are or may be necessary to carry into effect the purposes and objects of this act, as the same are hereinafter set forth: *Provided*, That nothing in this act contained shall extend or be construed to authorize the said company to carry on the business of banking, brokerage, or any other busi-

Banking prohibited.

ness except what properly belongs to a rail-road and transportation company, as hereinafter provided.

SEC. 2. The said company, within thirty days after the time this act shall take effect and be in force, shall have the right to contract with and purchase from the state, and the state will sell and grant to the said company, all the right, title and interest of the state in and to the Southern Rail-Road, and all its appurtenances, including the Tecumseh Branch, and all rights of way for a rail-road between Tecumseh and Manchester, which the state now has or is entitled to, and all machine shops and other buildings, and stock and materials upon said road, of whatever name or kind, and all lands or rights of way which the state has or may have acquired in connection with said rail-road, for the price or sum of five hundred thousand dollars; of which the sum of ten thousand dollars shall be paid by the said company, at the state treasury, to the state treasurer, within thirty days after the time this act shall take effect and be in force, and the further sum of forty thousand dollars within three months from the time this act shall take effect and be in force, to be paid as hereinafter provided; and at the time of making said payment of forty thousand dollars, the said company shall execute to the state of Michigan a bond, in the penal sum of one hundred thousand dollars, with sufficient sureties or securities, to be approved by the auditor-general, conditioned for the payment to the state of all damages it may sustain from the said company's neglecting to return to the state the stock, materials and furniture of said road, of whatever name or kind, in as good condition and of equal value as when the same was received by said company from the state, in case of any forfeiture of said rail-road to the state for any of the causes in the next succeeding section specified; and thereupon the said company shall immediately thereafter be put into and be entitled to the possession of said rail-road and its appurtenances, including all lands, machine shops and other buildings, (saving and except that any

May purchase road.

And branch.

Bond.

May take possession.

person who may own any building upon the land belonging to the state, on the line of the Southern Rail-Road, which land may be transferred to said company under this act, may dispose of or take away such building within three months after such transfer,) and their furniture, and all stocks and materials upon said rail-road, of whatever name or kind; and said company shall, within six months from the time when this act shall take effect and be in force, purchase and place upon the said road additional locomotives and cars of the value of twenty thousand dollars. And if said company shall, within nine years from the payment of said sum of forty thousand dollars, pay to the state the further sum of four hundred and fifty thousand dollars, in eighteen equal semi-annual instalments of twenty-five thousand dollars each, together with the interest upon all portions of the purchase money remaining unpaid, at the rate of six per cent. per annum, to be paid semi-annually, to be computed from the time when the said sum of forty thousand dollars shall have been paid by said company to the state, said sum of four hundred and fifty thousand dollars, and interest thereon, to be paid at the state treasury in the manner prescribed for the payment of the aforesaid sum of forty thousand dollars, then and immediately thereafter, all the right, title and interest of the state to the Southern Rail-Road and all its appurtenances, including all machine shops, depots and other buildings, and stock upon the said road, of whatever name or kind, and all lands and estates, or interest in land, and rights of way which the state has or may have acquired in connection with said rail-road, and for the purposes thereof, and which it may lawfully convey, (save as aforesaid,) shall then and thereafter vest in and become the property of said company; but such interest in lands shall not extend to or include any lands granted to the state by the government of the United States, for the purposes of internal improvement: *Provided*, That nothing in this section contained shall be construed as rendering the state liable by reason of any

Instalments.

Road vest in company.

State not liable for land titles.

want of power to convey or for any defect or failure of the title in and to the property granted, or any part thereof.

Failing to pay. Company dissolved.

SEC. 3. In case said company shall not within thirty days after the time this act shall take effect and be in force pay into the state treasury the sum of ten thousand dollars, and within three months from the time this act shall take effect and be in force the further sum of forty thousand dollars, in manner provided in the last preceding section, then in such case, said Michigan Southern Rail-Road Company hereby incorporated, shall immediately be and become dissolved, and shall thenceforward neither have nor exercise any of the rights, privileges or immunities of a body corporate or politic for any purpose whatsoever; and in case the said company shall pay into the state treasury in manner aforesaid, the sum of ten thousand dollars within thirty days after the time this act shall take effect and be in force, and within three months after the time this act shall take effect and be in force, the further sum of forty thousand dollars, but shall fail to pay into the state treasury in the manner and within the times above specified, after such payment of the said sum of forty thousand dollars, the further sum of four hundred and fifty thousand dollars, with interest on the same semi-annually, at the rate of six per cent. per annum, to be computed as aforesaid, or shall fail to pay any part thereof when due and payable, then in such case the said sum of ten thousand dollars, and the said sum of forty thousand dollars, and all other sums that may have been paid prior to such default, shall be and become absolutely forfeited to the state; and all property and estate of whatever name or kind, which said company shall be seised or possessed of or entitled to, shall immediately become forfeited to and vest in the state to all intents and purposes; and the state may immediately thereafter take possession of the same, and all corporate franchises hereby granted shall then and thereafter become and be wholly null and revoked; and in case the said sum of four hun-

Road forfeited.

State may take possession.

dred and fifty thousand dollars, or any part thereof, and interest to be computed as aforesaid, or any part thereof, shall not be paid as aforesaid, when due and payable, then the state treasurer shall certify to the fact of such non-payment, and upon such certificate any justice of the Supreme Court may make an order that any writ or writs of execution shall issue from the Supreme Court in which the state shall be named as plaintiff and said Michigan Southern Rail-Road Company as defendant, and which writ or writs may be directed to any sheriff or sheriffs, coroner or coroners within this state; and the said certificate, with said order endorsed, being filed in the office of the clerk of the Supreme Court in any circuit, the said order shall have the effect of a judgment of said court; and thereupon one or more writs of *habere facias possessionem* or other writs of execution may be issued under the direction of the attorney-general into any county or counties of this state, and may be made returnable into said court in the discretion of the attorney-general, either in term time or vacation; and alias and pluries writs may be issued, directed to the sheriff or coroners of the same or different counties from antecedent writ or writs. And it shall be competent for the Supreme Court, or any justice thereof, upon application of the attorney-general, to prescribe the forms and contents of any such writ or writs to be issued under this section; and any writ of *habere facias possessionem* to be issued under this section may command the sheriff or coroner to whom the same may be directed, that he cause the state to have possession of the Southern Rail-Road, or any portion thereof, or of any rail-road which may have been constructed or used by said company, or any portion thereof, and of the respective appurtenances thereunto belonging, including all lands, rights of way, tenements, depots, car-houses, machine shops and other structures and edifices connected with said rail-road or rail-roads, or any portion or portions of the same, and all stock of such rail-road or rail-roads, or any portion thereof, including cars, loco-

To issue writ.

Take possession of any road used by Company.

motives and tenders, and the furniture of said rail-road or rail-roads, or any portion thereof; and the Supreme Court, upon application of the state by the attorney-general, may make any rule or rules, order or orders, which it may deem expedient the better to carry out and give effect to the intent of this section.

What may be received in payment.

SEC. 4. In any payment of purchase money to be made to this state by or from said company, the state treasurer is hereby authorized and directed to receive, and the said company may at its option, pay the whole or any portion in lawful money of the United States, or in either of the following class of state indebtedness, to wit:

First.—The bond specified in the first section of an act entitled an act to liquidate the public debt, and to provide for the payment of interest thereon, approved March eighth, eighteen hundred and forty-three, and the interest bonds issued for unpaid interest on said bonds up to July first, eighteen hundred and forty-five, at the sums mentioned in said bonds respectively, with interest due and unpaid thereon at the time of the payment of the same into the treasury.

Second.—The three million eight hundred and thirteen thousand dollars of five million loan and other bonds delivered to the United States Bank and Morris Canal and Banking Company, and referred to in the preamble to the sixth section of the above mentioned act, at the rate of four hundred and three dollars and eighty-eight cents and six mills on each one thousand dollars of said bonds for principal and interest due thereon the first day of January, eighteen hundred and forty-six, and adding for subsequent interest at the rate of six per cent. per annum, on three hundred and two dollars and seventy-three cents for each thousand dollars of said bonds: *Provided*, The coupons since July, eighteen hundred and forty-one, shall remain attached thereto.

Third.—The stock issued in behalf of the Palmyra and Jacksonburg Rail-Road Company, with the interest due and unpaid thereon.

Fourth.—All warrants or other evidences of state indebtedness, due or past due, not comprehended in the previous provisions of this section, except warrants drawn on the commissioner of the state land office, made payable in lands only.

May locate and construct road.

SEC. 5. The said Michigan Southern Rail-Road Company shall have full power and authority to locate, and from time to time to alter, change and re-locate, so as not to materially change the route, construct and re-construct, and fully to finish, perfect and maintain a rail-road, with one or more tracks, from some suitable point at or near the mouth of the ship canal, in the city of Monroe, to pass through the villages or towns of Petersburg, Adrian, Hillsdale and thence to Coldwater, by the way of Jonesville, if deemed the most practicable route, and from thence to Lake Michigan, on the line heretofore established as the line of the Southern Rail-Road by the state, or anywhere further southward than said line, and also from the junction of the Tecumseh branch with the said Southern Rail-Road, to pass through the villages of Tecumseh and Clinton, to the village of Manchester, in the county of Washtenaw, in this state, and to transport, take and carry property and persons upon said rail-road or way, by power and force of steam, or of animals, or of any mechanical or other powers, or any combination of them which said company may choose to use or apply. And for the purpose of constructing said rail-road or way, said company shall have authority and power to lay out, designate and establish their road in width not exceeding one hundred and fifty feet, through the entire line thereof, and may take, have and appropriate to their use all such lands so designated for the line or construction of said road, upon first paying or tendering therefor, or depositing with the treasurer of the state, subject to the order of the court which may confirm the inquisition of the jury, such amount of damages as shall have been settled by appraisal in the manner hereinafter provided, on all such lands as may be taken westwardly

Route of, &c.

Branch.

Width of road.

Take land 150 feet wide.

from the village of Hillsdale, or northwardly of Tecumseh, on the Tecumseh branch, or upon any new track that may be located by said company; and for the purpose of cuttings and embankments, and for the obtaining of stone, sand and gravel, may take and appropriate as much more of land as may be necessary for the proper construction and security of said road, and for constructing shops, depots and other proper, suitable and convenient fixtures in connection with, and as appurtenances to said rail-road, may take, have, use and occupy any lands on either side of said rail-road, not exceeding two hundred feet in depth from said rail-road, the said company taking all such lands as gifts, or purchasing or making satisfaction for the same, in manner hereinafter provided. And no rail-road or rail-roads from the eastern or southern boundary of the state shall hereafter be authorized to be built or constructed by or under any law of this state, any portion of which shall approach westwardly of the township of Monroe, in the county of Monroe, within five miles of the line of said rail-road, as designated in this act; nor shall any rail-road or rail-roads be so authorized to be built or constructed which shall commence within twenty miles of the city of Monroe, and extend to Lake Michigan, or the southern boundary line of the state, and the line of which shall, on an average, run within twenty miles of the main line of the said Michigan Southern Rail-Road: *Provided*, That this section shall not be construed to restrict or prevent the construction of public roads or canals, or private ways, under, above or across the road of said company, when deemed expedient, but so as not necessarily to obstruct the same.

Take additional lands.

Other roads not to be constructed within five miles.

To be finished to Coldwater, &c.

Four years.

SEC. 6. The said Michigan Southern Rail-Road Company are hereby required to construct, finish and put in operation the said rail-road from Hillsdale, in the county of Hillsdale, to Coldwater, in the county of Branch, within four years from and after the passage of this act; also, to construct and put in operation the rail-road from Coldwater aforesaid, to some eligible point on St. Joseph

river, in the county of St. Joseph, in this state, within four years thereafter; and also construct, finish and put in operation the said Southern Rail-Road from the St. Joseph river, in the county of St. Joseph, to the village of Niles, on the St. Joseph river, in the county of Berrien, within twelve years from the passage of this act; and said Southern Rail-Road Company shall, also, within three years* after the passage of this act, extend, construct and complete the Tecumseh branch, from the village of Tecumseh, by way of Clinton, to the village of Jackson, by way of Manchester, and along the line of the rail-roads formerly authorized to be constructed by the Jacksonburg and Palmyra Rail-Road Company, or so far along the same as may not conflict with the provisions of an act entitled, "An act to authorize the sale of the Central Rail-Road and to incorporate the Michigan Central Rail-Road Company," approved March twenty-eight, eighteen hundred and forty-six, and put the same in operation with sufficient motive power to do the business of the country depending on said branch; and in case the said company do not construct, finish and put in operation that portion of the Southern Rail-Road west of Hillsdale, to the points above specified within the times above specified, or that portion of the Tecumseh branch road to the village of Manchester, as above provided, then the charter to such portion of either of said roads as shall not have been so constructed shall become forfeited; and if said company shall not extend said Southern Rail-Road west from Hillsdale, as above provided, or said Tecumseh branch north from Tecumseh, as above provided, then any person or persons may subscribe stock for the extension of either of said roads to any of the points above named; and when a sufficient amount of stock shall be so subscribed and paid in for such extension, then the directors of said company shall cause the road to be constructed, without unnecessary delay, to such

Eight years.

Twelve years.

Three years.

Branch.

Tecumseh branch to be constructed.

Forfeiture.

When other stock may be subscribed.

*Extended three years more, March 31, 1849.

point; and when said extension shall be completed, the shares on the road so extended shall be entitled to a dividend of the net profits of said road in proportion to the amount of instalments paid in on the respective shares of said company; and if said company shall not extend said Southern Rail-Road west from Hillsdale, within the time as above provided, or said Tecumseh branch, north from Tecumseh, within the time as above provided, then the incorporators shall, within one year thereafter, cause books to be opened at such times and places as they shall direct, for the purpose of receiving subscriptions to the capital stock of said company for the purpose of extending said roads, or either of them, to any of the points above named, and then any person or persons may subscribe stock for the extension of either of said roads to any of the points above named; and when a sufficient amount of stock shall be so subscribed and paid in for such extension, then the directors of said company shall cause the road to be constructed, without unnecessary delay, to such point; and when said extension shall be completed, the shares on the road so extended shall be entitled to a dividend of the net profits of said road in proportion to the amount of instalments paid in on the respective shares of said company; and said shares thus subscribed and paid in shall be capital stock of said company, and the persons so subscribing and paying shall be stockholders in said company, and entitled to all rights and privileges of the original stockholders of said company.

Books opened.

May enter upon lands.

Sec. 7. The said company, and under their direction, their agents, servants and workmen, are hereby authorized and empowered to enter into and upon the lands and grounds of or belonging to the state, or to any person or persons, bodies politic or corporate, and to survey and take levels of the same, or any part thereof, and to set out and ascertain such parts as they shall think necessary and proper for making said rail-road, with one or more sets of tracks or rails, and for all the purposes connected with said rail-road, for which the said company, by the

For surveys.

last preceding section, is authorized to take, have or appropriate any lands, and to fell and cut down all timber and other trees standing or being within one hundred feet on each side of said line of rail-road, the damages occasioned by the felling of such trees, unless otherwise settled, to be assessed and paid in the manner hereinafter provided for assessing and paying damages for land taken for the use of said company; and also, to make, build, erect and set up in and upon the route of said rail-road, or upon the land adjoining or near the same, all such works, ways, roads and conveniences as may be requisite and convenient for the purposes of said rail-road; and also, from time to time, to alter, repair, amend, widen or enlarge the same, or any of the conveniences above mentioned, as well for the carrying or conveying goods, commodities, timber or other things to and upon the said rail-road, as for carrying or conveying all manner of materials necessary for making, erecting, furnishing, altering, repairing, amending, widening or enlarging the works of or connected with said rail-road, and to contract or agree with the owner or owners thereof, for earth, timber, gravel, stone or other materials, or any articles whatsoever, which may be wanted in the construction or repair of said road, or any of its works and appurtenances; and also, to make, repair, maintain and alter any fences or passages under or through the said rail-road, or which shall communicate therewith, and to construct, erect and keep in repair any piers, arches or other works in and upon and across any rivers or brooks, for making, using or maintaining the said rail-road and side paths, and also to construct, make and do all other matters and things which may be necessary and convenient for making, effecting and preserving, improving, completing and using the said rail-road, in pursuance of and within the true intent and meaning of this act; they, the said company, doing as little damage as possible in the execution of the several powers to them hereby granted, and making satisfaction in manner hereinafter mentioned, for all

Cut timber.

And make road.

May alter road.

Cross rivers, &c.

damages to be sustained by the owners or occupiers of said lands, tenements and hereditaments.

May hold real estate.

SEC. 8. The said company shall have power and authority to receive, take and hold all such voluntary grants and donations of land and real estate for the purpose of said rail-road, as may or shall be made to said company, to aid in the construction, maintenance and accommodation of said rail-road, and said company may

Agree with owners.

contract and agree with the owners or occupiers of any lands upon which said company may wish to construct the said rail-road or way, or which said company may wish to use or occupy for the purpose of excavation, or of procuring stone, sand, gravel, earth or other materials to be used in embankments or otherwise, in or about the construction, repair or enjoyment of said rail-road, or which said company may wish to occupy in any manner or for any purpose or purposes connected with said rail-road, for the use of which said company is authorized or empowered by this act to take, have or appropriate any lands, and to receive and take grants and conveyances of any or all such lands, and of any or all interests or estate therein, to them and their successors or assigns in fee

If not agree.

or otherwise; and in case said company cannot agree with the owners or occupiers of such lands as aforesaid, so as

When damages to be assessed by jury.

to procure the same by the voluntary deed or act of such owners or occupiers thereof; or if the owners or occupiers, or either or any of them be a *feme covert*, under age, *non compos mentis*, unknown or out of the county in which the land or property wanted may lie or be situate, application may be made to the circuit court commissioner, or either of the associate judges of such county in which the lands are situate, or a judge of the supreme court, pre-

Process.

vious notice of such application having been given to the owner or occupier of the land to be taken, either by personal service of such notice, ten days before making such application, or by public advertisement, for three weeks previous to such application, in some newspaper printed in the same county, if there be one; and if there

be none so printed in the same county, then such notice to be published in a newspaper printed in an adjoining county, if there be any newspaper printed in an adjoining county; and if there be no paper so printed in an adjoining county, such notice to be published in the state paper, if there be one, and if there be none, then in some newspaper printed in the city of Monroe; such notice to describe the lands proposed to be taken by the company, or touching which damages are to be assessed by the section and quarter-section, or any other legal sub-division; or if in a city or village, by the section, block and number of the lot, or by some other suitable and proper description; and evidence of the publication of such notice may be perpetuated by an affidavit, duly made by the printer or publisher of the newspaper in which such notice was published, such affidavit, to be made within three months after the last publication of such notice, shall be *prima facia* evidence of the facts therein set forth; and the commissioner or judge to whom such application shall be made, shall thereupon proceed to the office of the clerk of said county, and direct him to draw twelve names from the petit jury-box of the county, and the clerk shall thereupon draw twelve names from such box accordingly, and the said judge or circuit court commissioner, to whom such application was made, shall thereupon issue his warrant under his hand and seal, inserting therein the twelve names so drawn by the clerk, and the twelve names so drawn from the petit jury-box shall be thereupon deposited again by the clerk in said box, and the warrant so issued as aforesaid shall be directed to the sheriff of said county, or if the sheriff be interested, then to one of the coroners of said county, requiring him to summon the twelve persons whose names are inserted in such warrant as jurors, to meet on or near the land, or property, or materials to be valued, or touching which damages are to be assessed, on a day named in said warrant, not less than five nor more than ten days after the issuing of the same; and if at the said time and place any of the

Process for jury.

Jury drawn.

Summoned.

persons summoned do not attend, the said sheriff or coroner shall immediately summon as many as may be necessary, with the persons in attendance as jurors, to furnish a panel of twelve jurors, and from whom each party, or his, her or their agent or attorney, or if either be not present in person or by agent, the sheriff or coroner for him, her or them, may strike off three jurors, and the remaining six shall sit as a jury of inquest of damages; and before they act as such, the sheriff or coroner shall administer to each of them an oath or affirmation that they will justly and impartially value the damages which the owners or occupiers have sustained or will sustain by the use or occupation of the land, or taking of the materials or property required by said company, and the jury shall reduce their inquisition to writing, and shall sign and seal the same, and two originals of such inquisition shall be made and executed on the same day, one of which shall be delivered to the said company, and the other to the party claiming compensation; and the property taken, and the boundaries of the land to be taken or occupied by the said company, touching which the inquisition is made, and a map thereof, shall be set forth in such inquisition; and such inquisition shall be filed in, and shall also be confirmed by the circuit court of said county, at its next session, upon motion for that purpose made, if no sufficient cause to the contrary be shown; and when confirmed, the same shall be recorded by the clerk of such court at the expense of said company, but if not confirmed, another inquisition may be taken, in the manner above specified, and costs on such second inquisition shall be awarded by the court in their discretion to be paid by either party: *Provided*, That in the taking of any inquisition authorized by this section, it shall be competent for said company and said owner or occupier, or either of them, to appear before said jury and introduce evidence under the ordinary rules of law, the foreman of the jury being hereby authorized to administer the proper oath therefor. And the money assessed

Oath.

Inquisition to be in writing and sealed.

Filed in court.

Witnesses.

Oath.

as the valuation in any such inquisition, by the jury aforesaid, being paid or legally tendered to the party entitled to the same, or deposited with the state treasurer, subject to the order of the court confirming the inquisition as aforesaid, the property so taken and valued shall immediately thereupon vest in said company as fully as if the same had been transferred by lawful deed, by the owner or occupier thereof, for such term of time as the same may be required for the purposes authorized by this act; and in case the party entitled to receive such money shall not appear before the jury which makes the inquisition, and make claim to such lands, or shall not appear to demand or accept the money assessed as the valuation in any such inquisition, then a deposit with the treasurer of the state of the amount of money assessed as the valuation or damages by any such inquisition, together with a certified copy of the inquisition, shall be considered equivalent to payment or a tender thereof to the person entitled to the same; and the state treasurer shall receive and keep account of all moneys so received into the state treasury, and shall pay them to the parties entitled thereto, on the order of the chancellor; and such inquisition, when confirmed, shall have the effect of a judgment, and execution may be ordered to issue thereon against said company, in favor of the person to whom damages were awarded by such inquisition and confirmation thereof, at the expiration of sixty days from the time of such confirmation, unless prior thereto said company shall have satisfied the damages found or assessed by such inquisition in manner aforesaid; and if at any time it shall by any means happen that said company shall be in possession or occupancy of any land, the title to which or the full right of use and occupancy whereof, for the purposes of said company in manner aforesaid, shall not have been duly relinquished to or vested in said company, then in any and all such cases said company may acquire such title or rights of use and occupation by voluntary grant thereof, or by inquisition thereupon and therefor,

Money paid.

Property to vest in Co.

Effect of inquisition.

to be made and found, and the payment of the value or damages found or assessed in manner and form above prescribed; and the commissioner or judge issuing the warrant, and the sheriff or coroner and jurors to be summoned under this act shall be entitled, for the services rendered by them, to such compensation as may be fixed therefor by the chancellor, by an order for that purpose to be made by him, and which costs shall be paid by said company.

May cross roads.

SEC. 9. Whenever, in the construction of said rail-road, it shall be necessary to cross or intersect any established road, it shall be the duty of said company so to construct the said rail-road across such established road as not unnecessarily to impede the passage of persons or property along the same; and when it shall be necessary to construct it through the lands of any individual, it shall be their duty to provide for such individual, proper wagon-ways, and keep the same in repair, across said rail-road from one part of his land to another.

Provide private crossings.

Or liable to damages.

SEC. 10. If said company shall neglect to provide proper wagon-ways across said rail-road, and keep the same in repair, as required by the preceding section of this act, it shall be lawful for any individual to sue such company, and to recover damages for such neglect or refusal on the part of said company.

May charge for transportation.

SEC. 11. The said company shall have power to purchase with the funds of the company, or contract for and place on any rail-road constructed by them under this act, all machines, wagons, carriages or vehicles of any description which they may deem necessary and proper for the purposes of transportation on said rail-road, and they shall have power to charge for tolls and transportation such sums as shall be lawfully established by the by-laws of said company, not exceeding the rates charged upon said Southern Rail-Road on the first day of January last; and it shall not be lawful for any other company, or any other person or persons to transport any passengers or merchandise, or property of any description what-

Not exceeding, &c.

ever, upon said rail-road or any part of it, without the license or permission of said company; and the said rail-road, with all its improvements, works and profits, and all machinery used on said rail-road for transportation, and all the machine shops, depots, buildings and edifices connected with said rail-road shall be vested in the said company forever; and the shares of the capital stock of said company shall be considered personal property, and shall be transferable on the books of said company agreeably to the by-laws of said company, and subject to be taken in execution agreeably to such laws as are or may hereafter be in force.

Shares considered personal property.

Sec. 12. The said company shall have full power and authority to demand and recover and take the tolls or dues to and for their own proper use and benefit on all goods, merchandise and passengers using or occupying the said rail-road, or any other convenience, erection or improvement built, occupied or owned by the said company, to be used therewith, and shall have power to regulate the time and manner in which goods and passengers shall be transported, taken and carried on the same, as well as the manner of collecting all tolls and dues on account of transportation and carriage, and storage, and shall have full power to erect and maintain such toll-houses and other buildings for the accommodation and proper transaction of their business as to them may seem necessary: *Provided*, That at the eastern termination of said rail-road, no greater or higher charges shall be allowed or charged for the storage or shipment of property than shall be charged or allowed for like service by the Michigan Central Rail-Road Company at the eastern termination of the Michigan Central Rail-Road.

May demand tolls and dues.

Regulate times, &c. Storage.

Buildings.

Storage not to exceed, &c.

Sec. 13. Whenever it shall be necessary for the construction of their rail-road to intersect or cross any stream of water, or water-course, or road or highway lying on the route of the said rail-road, it shall or may be lawful for the company to construct their rail-road across or upon the same: *Provided*, That the said company shall restore

May cross stream of water.

the stream or water-course, road or highway thus intersected or crossed to its former state, or in a sufficient manner not unnecessarily to impair its usefulness.

Dividends. SEC. 14. The said company may annually or semi-annually make such dividend as they may deem proper, of the net profits, receipts or income of the said company, deducting the necessary expenses; and they shall make the dividend among the stockholders of the said company in proper proportions to their respective shares: *Provided*, That no such dividend shall exceed six per cent. per annum until after the whole amount of the purchase money and interest thereon shall have been paid to the state.

May regulate tolls. SEC. 15. It shall and may be lawful for the said company from time to time to fix, regulate and receive the tolls and charges taken for the transportation of property and persons on said rail-road, as aforesaid, hereby authorized to be constructed, erected, built, made and used, and for storage of property remaining in the depot of said company, if not taken away as hereinafter provided:

Not to exceed, &c. *Provided*, Said company shall charge no greater sum or tolls for the transportation of persons or property than were charged or authorized by the state of Michigan to be taken on the Southern Rail-Road, on the first day of January last; and said company shall transport merchandise and property on the said road without showing partiality or favor, and with all practicable despatch;

Transport without favor. under a penalty for each violation hereof of one hundred dollars, to be recovered by the party aggrieved in an action of debt: *Provided, nevertheless*, That soldiers, sailors and marines, and their officers, in the service of this state or of the United States, and officers of the army and navy of the United States, and arms, ordnance, military stores and munitions of war, shall, upon request

Troops, &c., priority. made by the proper authority, take priority and precedence, first in favor of this state, and secondly in favor of the United States, and shall be transported upon said

rail-road before and in exclusion of all other persons and property.

May charge for storage.

SEC. 16. The said company may charge and collect a reasonable sum for storage upon all property which shall have been transported by them, upon delivery thereof at any of their depots, and which shall have remained in any of their depots more than four days: *Provided*, That elsewhere than at their Monroe depot the consignee shall have been notified, if known, either personally or by notice left at his place of business or residence, or by notice sent by mail, of the receipt of such property, at least four days before any storage shall be charged; and at the Monroe depot such notice shall be given twenty-four hours (Sundays excepted) before any storage shall be charged; but such storage may be charged after the expiration of said twenty-four hours, upon goods not taken away: *Provided*, That in all cases the said company shall be responsible for goods in deposit in any of their depots, awaiting delivery, as warehousemen and not as common carriers. And if said company shall charge or take any remuneration for storage of goods otherwise than as aforesaid, it shall forfeit and pay to the state of Michigan in each case for so doing the sum of fifty dollars.

After notice.

Liability of company.

May own boats or vessels.

SEC. 17. The said company shall have power and authority to own, charter or hire, and to employ and use, in the navigation of the lakes and rivers, and waters connecting the same, and the parts thereof, boats or vessels, propelled by steam or other power, not to exceed six in number, for the purpose of the transportation and carriage of persons and property to and from the ports upon the said waters. And said company may demand and receive such rates, price and remuneration for the transportation of persons and property, on such boats or vessels as to it shall seem meet and proper. And said company shall have full authority to purchase, contract for, construct, repair, manage, control, sell and dispose of any and all such boats and vessels as are contemplated in this section, and to exercise any and every such power

in relation to any and all such boats or vessels as an individual person might or could lawfully exercise in regard thereto.

Side track may be constructed.

SEC. 18. Whenever it shall be necessary for the convenience of the public or persons receiving or sending property by said rail-road, the said company shall permit side tracks to intersect their main road at any depot on or along the line of said road, and that such persons shall be entitled to have any property taken from such side tracks, under the direction and regulations of said company, without unreasonable delay; and for the non-performance by said company of any act by this section required to be done, said company shall forfeit and pay to the party aggrieved the sum of fifty dollars in such case, to be recovered in an action of debt.

And used.

Forfeiture.

Franchises.

SEC. 19. From the time when the franchises granted by this act shall vest in said Michigan Southern Rail-Road Company, said company thenceforward and ever afterward, (save on the first day of the week, or in case of accident, which shall prevent,) shall keep open for public use, and in good repair, and with sufficient motive power and cars for the transportation of persons and property, under such by-laws as said company may lawfully make, so much of their rail-road in this act mentioned and described as shall extend from the city of Monroe to the village of Hillsdale; and the said rail-road between the city of Monroe and Adrian shall at all times be kept in all respects in as good condition and repair as the road between Adrian and Hillsdale; and the motive power and cars of all descriptions shall at all times, on that portion of the road between Monroe and Adrian, be in no respect inferior either in quality or quantity to those on that part of the road west of Adrian; and whenever the said company shall put a T rail or other heavier iron rail than is now laid on said road, on any portion of the line of said road, the said company shall first relay the track between Monroe and Adrian, and place such heavier iron on said track between Monroe and Adrian before

Road repaired and run.

Additional act. 1849.

T rail.

such heavier iron shall be placed on the road between Adrian and Hillsdale;* and so soon as said company shall have constructed and completed and opened for the transportation of persons and property, that portion of said rail-road which shall extend from Hillsdale aforesaid to Lake Michigan aforesaid, and every portion thereof, which shall from time to time be constructed and completed between said village of Hillsdale and Lake Michigan, thence and ever thereafter (save on the first day of the week, or in case of accident, which shall prevent) said company shall keep in repair and open for public use, for the transportation thereon of persons and property, under such by-laws and regulations as said company may lawfully make, an entire line of rail-road from the navigable waters of Lake Erie, in the city of Monroe, to Lake Michigan. The said company shall not engage in the business of purchasing for sale, produce or any other merchandise or commodity, nor be directly or indirectly interested in the profits or loss of any such business; and after the completion and opening of said road to Lake Michigan, the said company shall always keep and have upon the said road a supply of motive power and cars, both for persons and property, sufficient for the expeditious and convenient transaction of all business, and transportation of all persons and property offering for transportation thereon, according to the usual course of business upon the line and route of said road; and said company shall at all times receive and discharge persons and property at such warehouses and places along the line of said rail-road as such persons or the consignors or owners of such property may direct or require; and this, under a penalty to the state of Michigan of five thousand dollars in each case, for neglecting, for the space of thirty days, to comply with the provisions of this clause.

Company not engage in purchases, &c.

To have motive power, &c.

Receive and deliver on line, &c.

Sec. 20. The corporate stock of said company shall be two millions of dollars, with the privilege of increasing

* Altered March 31, 1849.

Capital stock. the same to three millions of dollars, and to be divided into shares of one hundred dollars each, which shares shall be transferable on the books of said company in such manner as the by-laws of said company shall direct: *Provided*, That the said company may commence business whenever five hundred thousand dollars of said stock shall have been subscribed.

Directors. SEC. 21. The nine persons first named in the first section of this act shall be the first directors of said Michigan Southern Rail-Road Company, and at their first meeting

To elect president. they shall elect by ballot one of their number to be president, a majority of whom shall be competent to manage the affairs of said company; such first meeting of the directors shall be held at a time and place to be fixed by a written agreement signed by all of said directors, or at a time and place designated by a notice, to be signed by a majority of said directors, and published in any newspaper printed in Monroe, Hillsdale or Detroit, one week next preceding the time for such meeting.

May open books. SEC. 22. Said directors, or a majority of them, may open books to receive subscriptions to the capital stock of said company, at such times and places as they, or a majority of them, may appoint, and shall give such notice of the times and places of opening said books as they may deem reasonable, and shall receive such subscriptions under such regulations as they may adopt for the purpose; and if more than twenty thousand shares of the stock shall be subscribed, the directors shall have power to make the shares so subscribed the capital stock of said company: *Provided*, They shall not exceed thirty thousand shares; and in case the subscriptions exceed thirty thousand shares, the same shall be reduced and apportioned in such manner as may be deemed most beneficial to the company.

Directors chosen annually. SEC. 23. To continue the succession of president and directors, nine directors shall be chosen annually, on the second Monday in June, at such place in this state as may be appointed by the directors; and no person shall

be competent to act as a director who is not a stockholder and a citizen of the United States; and if any vacancy shall occur by death, resignation or otherwise, of any president or director, before the year for which he was elected shall have expired, such vacancy for the remainder of the year may be filled by the directors of said company, or a majority of them. The directors of said company shall hold their offices until a new election of directors. All elections, which are by this act, or by the by-laws of the company, to be made on any particular day, if not made on such day, may be made at any time within six months thereafter, notice of such meeting being given in the manner hereafter prescribed in section twenty-five of this act; and on all occasions when a vote of the stockholders is to be taken, each and every share shall entitle the holder thereof to one vote, either by himself in person, or by proxy.

Vacancies.

Proxies.

Election.

Sec. 24. In case it shall at any time happen that an election of directors shall not be made on any day, when, pursuant to this act it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved; but such election may be subsequently made, and the directors chosen for the year preceding shall hold their offices until such election shall be made.

General meeting.

Special meetings.

Sec. 25. A general meeting of the stockholders of said company shall be holden annually, at the time and place appointed for the election of directors; and a meeting may be called at any time during the interval between such annual meetings by the directors, or by the stockholders owning not less than one-fourth of the stock, by giving thirty days' public notice of the time and place of meeting, in the state paper, if there be one, and if there be no state paper, then such notice shall be published in one newspaper printed in Detroit, and one printed in the city of Monroe; and when any such meeting is called by the stockholders, the particular object of such call shall be stated; and if, at any meeting thus called, the stockholders holding a majority of the stock are not present in

How notified.

person or by proxy, such meeting shall be adjourned from day to day, not exceeding three days, without transacting any business, and if within said three days, stockholders having a majority of the stock do not attend such meeting, then the said meeting shall be dissolved.

President and directors to exhibit statement.

SEC. 26. At the regular annual meeting of the stockholders of said company, it shall be the duty of the president and directors in office for the preceding year, to exhibit a clear and distinct statement of the affairs of the said company; and at any meeting of the stockholders, a majority of those present in person or by proxy, may require similar statements from the directors, whose duty it shall be to furnish them when thus required; and at all general meetings of the stockholders, the stockholders holding a majority of the stock in said company, may remove any president or any of the directors of said company, and elect other directors in their stead: *Provided*, Notice of such intended removal has been given as required in the last preceding section.

To pay sums due on shares, &c.

SEC. 27. It shall be lawful for the directors to require payment of the sum subscribed to the capital stock of said company, at such times and in such proportions, and on such conditions as they shall deem proper and necessary, in the execution and progress of the work, and direct the same to be paid to the treasurer of the corporation. And the treasurer shall give notice of all such assessments; and in case any subscriber or stockholder

On neglect shares sold.

shall neglect to pay any assessment on his share or shares for the space of thirty days after such notice is given, as shall be prescribed by the by-laws of said corporation, the directors may order the treasurer to sell such share or shares at public auction, after giving such notice as may be prescribed as aforesaid, to the highest bidder, and the same shall be transferred to the purchaser on the books of the company, by the president thereof, and such delinquent subscriber or stockholder shall be held

Liable for deficiency.

accountable to the company for the residue of the assessments, not satisfied by the proceeds of such sale of his

share or shares, if sold for less than the assessments due thereon, with the interest and costs of sale, and such costs and interests to be first paid from the proceeds of such sale, and shall be entitled to the surplus, if his share or shares shall sell for more than the assessments due, with interest and cost of sale: *Provided, however*, That no assessment shall be laid upon any shares in said corporation for a greater amount in the whole than one hundred dollars upon each share.

Compensation of officers.

SEC. 28. The said directors, or a majority of them, shall have power to appoint, contract with and determine the compensation of all such officers, engineers, agents and servants whomsoever, as they may deem necessary for the transaction of the business of the company, and remove them at pleasure, and the said directors, or a majority of them, shall have power to determine the manner and evidence of the transfers of the stock in said company, and they shall have power to pass all by-laws which may be necessary for the carrying into execution all the powers vested in the company hereby incorporated: *Provided*, Such by-laws shall not be contrary to the constitution or laws of the United States, or of this state.

Transfers of stock. By-laws.

Powers of directors.

SEC. 29. The directors shall have full power to conduct the affairs of said company, and to exercise any powers which said company might exercise, except where provision is made by this act for the exercise of such powers by the stockholders at their annual or special meetings, or where the powers of the directors may be restrained by the by-laws of said company.

Report to secretary of state.

SEC. 30. The directors of said company shall annually, on or before the twenty-fifth day of January, make a report to the secretary of state, which shall embrace the business of the preceding year to the first day of January, stating the length of their road in operation, cost of construction, and the indebtedness of the company for materials or work in progress of delivery or execution on account of construction, as near as can be conveniently ascertained, and all other indebtedness, if any there be;

the amount of capital stock subscribed, and the amount actually paid in, and all loans made for the purposes mentioned in the next preceding section; the amount of dividends, receipts from freight, from passengers, and from all other sources on account of operating the road; the number of through and way passengers respectively; the expenditures for the repair of the road, for repairs of engines and cars, and other expenditures; which three last mentioned items shall include all the expenditures for operating the road, and the expenditures made for construction during the year; the number of engines, of passenger, freight and other cars; the average number of men in employment of the company; the number of miles run by passenger, by freight and other trains; which report shall be verified by the affidavit of at least two of the directors, and filed in the office of the secretary of state.

Annual tax. SEC. 31. The said company shall pay to the state an annual tax of one-half of one per cent. upon the capital stock paid in, including the five hundred thousand dollars of purchase money paid, or to be paid to the state, until the first day of February, eighteen hundred and fifty-one, and thereafter an annual tax of three-fourths of one per cent. upon its capital stock paid in, including the five hundred thousand dollars of purchase money aforesaid, and also upon all loans made to said company, for the purpose of constructing said rail-road, or purchasing, constructing, chartering or hiring of steamboats authorized by this act to be held by said company, which tax shall be paid in the last week in January in each year to the state treasurer, and the property and effects of said company, whether real, personal or mixed, shall, in consideration thereof, be exempt from all and every other tax, charge and exaction by virtue of any laws of this state now or hereafter to be in force, except penalties by this act imposed.

Half per cent.

Three fourth per cent.

No other tax.

State. Lien on road. SEC. 32. The state shall have a lien upon the rail-road of said company, and its appurtenances and stock therein,

for all penalties, taxes and dues which may accrue to the state from said company; which lien of the state shall take precedence of all other debts or demands, judgments or decrees against said company. And every citizen of this state shall have a lien upon the personal property of said company, for any dues or demands against said company to an amount not exceeding in any one case the sum of one hundred dollars, originally contracted within this state, which, after said lien of the state, shall take precedence of all other debts or demands, judgments or decrees, liens or mortgages against said company.

Citizen's lien on, &c.

Penalty for injuring road.

Sec. 33. If any person shall intentionally do or cause to be done, or aid in doing or causing to be done, any act or acts whatever whereby any building, construction or work of said company, or any engine, machine or structure, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured or destroyed, the person or persons so offending shall be guilty of a misdemeanor, and may be punished upon conviction, by fine or by imprisonment not exceeding five years, or both, at the discretion of the court; and shall forfeit and pay to said corporation treble the amount of damages sustained by means of such offence or injury, to be recovered in the name of said company, with costs of suit, by action of trespass.

State may purchase road.

Sec. 34. The state may, at any time after the first day of January, eighteen hundred and sixty-seven, purchase and take from said company said rail-road, and all the property, effects and assets of said company, and said rail-road and appurtenances thereof; and all the estate, property, effects and assets of said company, (subject to all existing mortgages and other liens thereon, on account of loans, the proceeds of which shall have been invested in the said road or other works of said company,) shall fully and forever vest in and become the estate, property and effects of the state, to all intents and purposes, so soon and whenever after the day aforesaid the state shall pay or cause to be paid to said company the value of the

Price to be paid.

entire stock of and shares in said company, at the market value of said stock or shares, and ten per cent. in addition to such market value of said stock or shares; such market value to be ascertained by taking the average of the public sale prices of said stock or shares, as made in the city of Boston, in Massachusetts, and in the city of New-York, in the state of New-York, during the twelve months next preceding the first day of January, in the year in which the state shall so purchase; but in no case shall the amount to be paid be less than the amount of capital actually paid in by the stockholders of said company; and in case the state and said company cannot agree upon the said market value of said stock or shares, the supreme court of this state shall be competent to determine the same, upon application therefor, to be made to said court within six months after the state shall elect to purchase; and the moneys so to be paid to said company shall be payable at the state treasury of the state of Michigan, in lawful current money of the United States, within two years after the time when the state shall elect to purchase, and the amount to be paid shall have been determined, as herein provided, upon three months previous notice of the time of such payment, to be published weekly in one or more newspapers published in the city of Detroit, or at the capital of the state of Michigan, and thereupon the corporate powers and franchises of said company shall wholly cease, and the rights and franchises vested, or which may vest in said company under or by virtue of this act, shall not in any manner be prejudiced or affected save as herein provided, or by judicial proceedings, or by a re-purchase of said rail-road, to be made by the state in manner aforesaid: *Provided*, That whenever in this act provision is made for a penalty to accrue, for the doing or not doing any act, said company shall in no wise be prejudiced by the doing or not doing of such act, except by the enforcement of such penalty.

Effects of penalties.

Property, &c., to be vested in state.

Sec. 35. All lands and property, and rights and interests therein, acquired by said company by purchase or other-

wise, in case of the re-purchase of the rail-road of said company by the state, shall become vested in the state in as full and ample a manner as the same were vested in, or exercised or enjoyed by the said company; and all deeds and conveyances, gifts and grants of real and personal property to said company, and all inquisitions taken or had under this act, to which said company shall be a party, shall, in case of re-purchase, accrue to the state in the same and as full and ample a manner as if the state had been the party to such deeds, conveyances, gifts, grants and inquisitions, instead of said company; and the state shall have full right and authority to have and use the same, and sell, assign and transfer the same to any person or persons whatever.

Transport mail.

SEC. 36. Said company shall, at all times, if required by the post-office department, transport the United States' mail upon said road as often as their cars shall pass thereon, not exceeding twice in each day, for such compensation as shall be agreed upon by said company and the said department; and in case no such agreement can be made, it shall be lawful for the governor of this state to appoint one commissioner and said company one, who, in case they cannot agree, shall appoint a third commissioner, which said commissioners, or a majority of them, shall agree upon and fix the prices, terms and conditions of transporting such mail, after fifteen days' notice to said company: *Provided*, That nothing herein contained shall be construed to require any of the vehicles of said company to wait at any office for the change of mail.

Repealing clause.

SEC. 37. The state reserves the right at any time after thirty years from the passage of this act, by a vote of two-thirds of each branch of the legislature, to alter, amend or repeal the same: *Provided*, The said company shall be compensated by the state for all damages sustained by reason of such alteration, amendment or repeal.

Act to take effect.

SEC. 38. This act shall take effect and be in full force from and after the acceptance of the charter granted to

the Michigan Central Rail-Road Company, and the payment of the sum of five hundred thousand dollars by the company last aforesaid, at the state treasury, to the state treasurer, which acceptance and payment shall immediately thereafter be made public by a notice to be given by the state treasurer and published in the state paper, if there be one, and if none, then in two daily papers published in the city of Detroit, or whenever the said Central Rail-Road is sold by the state.

Approved May 9, 1846.

AN ACT

IN REGARD TO THE ERIE AND KALAMAZOO RAIL-ROAD COMPANY.

Alterations of charter.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Michigan*, That the act entitled "An act to incorporate the Erie and Kalamazoo Rail-Road Company," approved April twenty-second, one thousand eight hundred and thirty-three, be amended by striking from the third section thereof, after the word "Adrian," the following: "and thence on the most eligible route to such point on the Kalamazoo river as they may deem most proper and needful;" and by adding thereafter the words "but not beyond the village of Adrian;" and by striking from the fourth section all from the beginning thereof to and including the word "only," being the following: "If said corporation shall not, within three years from the passage of this act, commence the construction of said rail-road, and shall not, within six years from the passage of this act, construct, finish and put in operation the said rail-road from Port Lawrence to the village of Adrian, and shall not, within fifteen years from the passage of this act, construct, finish and put in operation one-half of the said rail-road, and shall not, within thirty

years from the passage of this act, complete and put in operation the whole of the said rail-road, or in the event of the failure of the company to construct the parts of the said rail-road within either of the times above mentioned, then the rights, privileges and powers of said corporation under this act shall be null and void as to said parts of the said road which are not finished within the times limited by this act, and to them only;" and also by inserting after the word "incorporated," in the sixteenth section thereof, the following words, to wit: "not exceeding the following rates, to wit: The rates of transportation for like distances charged or authorized by the state of Michigan to be taken on the Southern Rail-Road on the first day of January last."

Tax to state.

SEC. 2. The said company shall pay to the state an annual tax of one-half of one per cent. upon its capital stock paid in, and also upon all loans made to said company for the purpose of constructing said rail-road; which tax shall be paid in the last week in January in each year, to the state treasurer, and the property and effects of said company, whether real, personal or mixed, shall, in consideration thereof, be exempt from all and every other tax, charge and exaction by virtue of any laws of this state now or hereafter to be in force, except penalties by this act imposed.

No other taxation.

Forfeiture of charter waived.

SEC. 3. If said corporation shall, within thirty days after this act shall become a law, signify their assent to the same in writing, and under their corporate seal, to be filed in the office of the secretary of state, then, in such case, (but not otherwise,) the liberties and franchises conferred by said original act of incorporation, except as herein provided, shall be deemed and held to be validly and legally in existence, and not forfeited nor liable to forfeiture for any act or omission prior to the passage of this act: *Provided*, The said company shall pay the taxable costs in a certain suit now pending in the court of chancery for a violation of its charter.

Lien of state.

SEC. 4. The state shall have a lien upon the rail-road of said company, and its appurtenances and stock there-

on, for all penalties, taxes and dues which may accrue to the state from said company, which lien of the state shall take precedence of all other debts or demands, judgments or decrees against said company. And every citizen of this state shall have a lien upon the personal property of said company, for all dues or demands against said company to the amount of one hundred dollars, which, after said lien of the state, shall take precedence of all other debts or demands, judgments or decrees, liens or mortgages against said company.

Lien of citizens, $100.

Transport mails.

SEC. 5. Said company shall at all times, if required by the post-office department, transport the United States' mail upon said road, as often as their cars shall pass thereon, not exceeding twice in each day, for such compensation as shall be agreed upon by the said company and the said department; and in case no such agreement can be made, it shall be lawful for the governor of the state to appoint one commissioner, and said company one, who may appoint a third, who, or a majority of whom shall agree upon and fix the prices, terms and conditions for transporting such mail, after fifteen days' notice to said company: *Provided*, That nothing herein contained shall be construed to require any of the vehicles of said company to wait at any office for the change of mail.

Repeal of section.

SEC. 6. That section nineteen of an "Act to incorporate the Erie and Kalamazoo Rail-Road Company," approved April 22d, one thousand eight hundred and thirty-three, be, and the same is hereby repealed: *Provided*, That the repeal of said section shall not be construed so as to prevent said Erie and Kalamazoo Rail-Road from crossing the Southern Rail-Road in the manner it now crosses the same.

Legislature alter, &c.

SEC. 7. The legislature may at any time alter, amend or repeal this act, or the act to which this is amendatory.

Act take effect.

SEC. 8. This act shall take effect and be in force from and after the expiration of thirty days from the taking effect of an act entitled "An act to authorize the sale of the Southern Rail-Road, and to incorporate the Michigan

Southern Rail-Road Company," and the payment into the state treasury of fifty thousand dollars of the price or purchase money to be paid therefor, and not before or otherwise.

Approved May 18, 1846.

Sections 6, 9, 10, 11, 13, 14, 16 and 22 of the general laws of Ohio, entitled "An act regulating rail-road companies, passed February 11, 1848, have been accepted by vote of the stockholders of the Erie and Kalamazoo Rail-Road Company, as provided in the 14th section, and that company are entitled to the benefit of the provisions of said sections.

AN ACT

TO AUTHORIZE THE MICHIGAN SOUTHERN RAIL-ROAD COMPANY TO REPAIR THEIR ROAD WITH HEAVY RAIL, AND FOR OTHER PURPOSES.

Repairs with T rails.

SEC. 1.* *Be it enacted by the Senate and House of Representatives of the State of Michigan*, That the Michigan Southern Rail-Road Company may be, and they are hereby permitted to repair any portion of said road with a heavy T or H rail, and build and lay that portion west of Hillsdale with a T or H rail.

Time extended for completing branch.

SEC. 2. That the time for completing the road to Clinton, in the county of Lenawee, and thence to Jackson, in the county of Jackson, be, and the same is hereby extended three years from the time the same is required to be completed in the original act incorporating said company: *Provided*, That this act shall not have effect unless it shall receive the assent of a majority of stock represented at the next annual election of directors of said company, and the assent shall be attested by the president and secretary of said company, and filed with the secretary of state.

Assent of company.

Approved March 31, 1849.

This act received the assent of a majority of stock represented at the annual election, holden June 11, 1849, as per copies filed with the secretary of state.

*Alters Sec. 19 of Charter.

AN ACT

TO AMEND AN ACT ENTITLED "AN ACT TO AUTHORIZE THE SALE OF THE SOUTHERN RAIL-ROAD, AND TO INCORPORATE THE MICHIGAN SOUTHERN RAIL-ROAD COMPANY," APPROVED MAY 9, 1846. PASSED MARCH 28, 1850.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Michigan*, That the time for the Michigan Southern Rail-Road Company to construct, finish and put in operation said road from Hillsdale, in the county of Hillsdale, to Coldwater, in the county of Branch, shall be, and the same is hereby extended one year beyond the time limited for that purpose in their act of incorporation, in the title of this act mentioned: *Provided*, said Michigan Southern Rail-Road Company shall construct, finish and put in operation said road from Hillsdale to Jonesville, in the county of Hillsdale, by the fifteenth day of September next.

SEC. 2. It shall be lawful for said company to pay in cash or any of the classes of state indebtedness which by the act incorporating said company, or by law, may be receivable by the state in payment of the purchase money, at the rates mentioned in their act of incorporation, and it shall be the duty of the state treasurer of this state to receive, whenever tendered by said company, any or all of the unpaid portion of the purchase money, or purchase price and interest due or to become due to the state, at any time before the same may become due by the terms of their charter. And all payments which shall be made in pursuance of this section shall be credited and applied by said treasurer, first upon the interest and then the balance upon instalments of principal which

will become first payable according to said act of incorporation. And from and after the full payment of the purchase money and interest thereon then remaining unpaid by said company to the state, the said rail-road and its appurtenances, rights, franchises and property of every description, shall vest in and become the absolute property of said company, free, clear and discharged of and from all liens and incumbrances of the state upon the same for the payment of the purchase money and interest thereon. But before said company shall be entitled to such discharge, the said company shall submit to and abide the decision of the board of state auditors upon the claim of the state against said company for nine thousand dollars, with interest from the twenty-third day of December, eighteen hundred and forty-six, for a locomotive and freight cars put on said road by the state, after July, eighteen hundred and forty-six, against which and in discharge whereof the said company claim to be allowed a considerable deficiency in the property delivered to them from the inventory furnished to the corporators; and said board of state auditors shall, between the first and twentieth days of June next, give to the said company, or to the secretary thereof, thirty days' previous notice of the time and place of hearing; and the decision of said board of auditors shall be final and conclusive in the premises; and if any sum shall by the said board be found due from said company to the state, said company shall pay said sum so found due, in addition to the next instalments of the purchase price, or within six months from the time of receiving notice of such decision.

Sec. 3. For the purpose of providing means for the payment of its debts, and for the construction, extension and completion of its rail-roads, shops, depots, buildings and equipments, said company may issue its corporate bonds or obligations for such amounts, not less than five hundred dollars, and in the aggregate not exceeding their

capital stock, and in such form as it may deem proper, and payable at such times and places, upon such terms and with such rates of interest (not exceeding eight per cent. per annum) as it may determine, and may secure the payment of the whole or any portion of such bonds or obligations by mortgage of the road or other property of said company: *Provided*, That no such mortgage shall in any respect invalidate or affect or change the title or ownership of said road so far as the same is vested in this state, or the priority of any lien or claim of this state upon said road or other property for the purchase price of said road, or any part thereof, or for any tax now due or to become due from said company to this state. And said company may sell, dispose of and negotiate such bonds or obligations either within or without this state, at such rates, for such prices and on such terms as said company may determine. And in case said bonds or obligations, or any of them, shall be thus sold, disposed of or negotiated at a discount, said sale, disposal or negotiation shall be as valid and effectual as if said bonds or obligations had been sold, disposed of or negotiated at their par value; and said bonds or obligations shall be valid and binding as a security for the whole sum payable by the terms thereof, in the same manner as if they had been sold, disposed of or negotiated at their par value; and all bonds heretofore issued by said company shall be as binding upon said company as if this act had never been passed, except as herein otherwise provided. But the said bonds or obligations now issued, or hereafter to be issued under the provisions of this act, shall in no way affect the title of the state to said Michigan Southern Rail-Road, or any portion thereof, or to the machinery, fixtures or other property upon or belonging to said railroad or company, neither shall said bonds or obligations take precedence of or affect any lien which the state now has or may have under the provisions of this act, or act to which this is amendatory.

Sec. 4. For all or any of the purposes aforesaid, said company may create and issue shares of guaranteed stock, to be denominated "construction stock," to such an amount as it may determine, not (with the original stock) to exceed the amount of their capital stock allowed by law, which construction stock shall be entitled to such dividends and payable at such place and in such manner, and with such preference or priority over the remaining stock of said company in the payment of dividends, as the directors of said company may determine, and as shall be approved by the holders of a majority of the stock represented at their annual meeting; and any such "construction stock," heretofore issued, and all guarantees and contracts in respect thereto, are hereby declared to be legal and binding upon said company. And the holders of such construction stock, and their representatives, shall be entitled to vote and have an equal voice in the management of the affairs of said company, with the holders of an equal amount of the original stock of said company. And said company may from time to time declare and pay, from its net profits, receipts or income, such dividends in cash or stock to its shareholders, as it may deem proper. But the dividends payable to the shareholders in each class of stock shall be in just proportion to their respective shares; and the fourteenth section of the act incorporating said company, so far as the same contravenes the provisions of this act, is hereby modified or repealed.

Sec. 5. The annual report of said company to the secretary of state, required by the thirtieth section of the act incorporating said company, shall hereafter embrace the business of said company for each year, to the first day of December, instead of the first day of January, as provided in said section.

Sec. 6. The said company shall construct and put into operation within three years after the passage of this act, the said rail-road from Coldwater, in the county of Branch, to St. Joseph river, in the village of Constantine, or to

such other point on said river St. Joseph as said company may select north of said village of Constantine, and in the county of St. Joseph; said rail-road from Coldwater to the point on the St. Joseph river to be constructed within the boundaries of the state of Michigan, and not nearer than two miles to the Indiana line: *Provided*, That nothing contained in this act, or the act to which this is amendatory, shall be so construed as to give the said Michigan Southern Rail-Road Company the right to construct and continue the said Michigan Southern Rail-Road from the village of Constantine to the state line of Indiana within one year after the passage of this act, and until the legislature shall have acted on said charter at the next session.

Sec. 7. Said company shall lay the track of said Michigan Southern Rail-Road between the city of Monroe and the village of Adrian with a heavy iron rail, weighing not less than fifty-six pounds to the yard, within five years from the passage of this act; at least five consecutive miles of which, commencing at the wharves in the city of Monroe, shall be laid down during the year eighteen hundred and fifty, and at least five miles in each year thereafter, until the whole is completed; the whole to be laid from Monroe to Adrian as aforesaid, before the rail-road leading from Adrian to Toledo, or any other rail-road hereafter to be built leading southwardly or southeasterly through any portion of the county of Lenawee to the state line of Ohio, shall be laid with as heavy a rail. And there shall never be less of equally heavy iron rail on that part of said Michigan Southern Rail-Road between Monroe and Adrian, than on said road leading from Adrian to Toledo, or any other road to be constructed southwardly or southeasterly as aforesaid, in proportion to the relative distance. And any violation of any of the provisos of this section shall forfeit to the people of this state the sum of thirty thousand dollars.

Sec. 8. The tariff or rates of toll and passage for the transportation of persons and property on or over that

portion of said Southern Rail-Road between the city of Monroe and the village of Adrian, shall never exceed the lowest price at any time charged from the village of Adrian to Toledo, on the rail-road between the two last named places, nor the price at any time to be charged on any rail-road leading from any part of the county of Lenawee, directly or indirectly, to any point within the state of Ohio, while or whenever there may be any connection of the Michigan Southern Rail-Road with any other rail-road leading into the state of Ohio. And it shall be the duty of the Southern Rail-Road Company at all times to afford to any consignor, owner or agent of any property that shall be directed or consigned to or by way of Monroe, fully equal facility in every respect for the transportation of such property as shall be given to any property consigned to Toledo; and no agent or other person in the employ of said company shall at any time endeavor or attempt to procure either freight or passengers for any direction or transportation over any road south of said Southern Rail-Road, in preference to that part of said road between Adrian and Monroe. For every violation of this section said company shall forfeit and pay to the party aggrieved a penalty of one hundred dollars, to be recovered by action of debt; and shall also be liable to all damages to the party aggrieved: *Provided*, That nothing in this act contained shall legalize or in any manner affect any connection of said Southern Rail-Road with the road called the Erie and Kalamazoo Rail-Road, or with any rail-road hereafter to be built, leading southwardly or southeastwardly therefrom, through any portion of this state eastwardly from the county of Lenawee.

Sec. 9. The said company are also required to keep in good running order the branch road leading from the Michigan Southern Rail-Road to the village of Tecumseh, in the county of Lenawee, and to furnish at all times all reasonable facilities for the transportation of freight and passengers thereon. The state reserves the right at any time after thirty years from the passage of this act, by a

vote of two-thirds of each branch of the legislature, to alter, amend or repeal the same: *Provided*, The said company shall be compensated by the state for all damages sustained by reason of such alteration, amendment or repeal.

SEC. 10. This act shall take effect whenever the said company shall accept the same, and their acceptance in writing, signed and certified to by the president and secretary of said company, under its corporate seal, shall be filed in the office of the secretary of state: *Provided*, Such acceptance shall be so filed within six months after the passage of this act.

AN ACT

TO PROVIDE FOR THE INCORPORATION OF RAIL-ROAD COMPANIES.

Incorporation.

SEC. 1. *The People of the State of Michigan enact*, That any number of persons, not less than twenty-five, being subscribers to the stock of any contemplated rail-road, may be formed into a corporation for the purpose of constructing, operating and maintaining such rail-road, by complying with the following requirements: When stock to the amount of one thousand dollars for every mile of said road so intended to be built shall be in good faith subscribed, and five per cent. paid thereon, as herein required, then such subscribers may select directors for said company; and thereupon they shall severally subscribe articles of association, in which shall be set forth the name of the corporation, the number of years the same is to be continued, the amount of the capital stock of the company, which shall not be less than eight thousand dollars per mile of road constructed or proposed to be constructed of the T, or continuous rail; and not less than four thousand dollars per mile of road constructed or proposed to be constructed with the flat bar rail: *Provided*, That no car shall be run at a higher rate of speed than fifteen

Articles of association, what to contain.

Amount of capital stock necessary.

Rate of speed on flat bar.

miles per hour upon any road so constructed with the flat bar rail; the number of shares of which the stock shall consist, the number of directors and their names, who shall not exceed in number one-half the stockholders, the place from and to which the proposed road is to be constructed, and each county into or through which it is intended to pass, and its length, as near as may be, and the names of five commissioners to open books of subscription to the stock. Each subscriber to such articles of association shall subscribe thereto his name, place of residence and the number of shares of stock taken by him in such company. The said articles of association may be filed in the office of the secretary of state: *Provided*, That such articles of association shall not be filed in the office of the secretary of state as aforesaid, until five per cent. of the amount of the stock subscribed thereto shall have been actually paid in cash to the directors named in such articles, nor until there is annexed thereto an affidavit made by at least three of the directors named in said articles, that the amount of stock required by this section, to wit, $1,000 per mile, has been subscribed, and that five per cent. on the amount has actually been paid in. And thereupon the persons who have subscribed, and all persons who shall from time to time become stockholders in such company, shall be a body corporate, by the name specified in such articles, and shall be capable of sueing and being sued, and may have a common seal, and may make and alter the same at pleasure, and be capable in law of purchasing, holding and conveying any real and personal property whatever, necessary for the construction of such road, and for the erection of all necessary buildings, yards and appurtenances, for the use of the same.

To subscribe name, residence and number of shares.

Articles to be filed with secretary of state when five per cent. is paid in.

To have corporate powers.

Sec. 2. A copy of any articles of association, filed in pursuance of this act, with a copy of the affidavit annexed thereto, and certified by the secretary of state to be a copy, shall, in all courts and places, be presumptive evidence of the incorporation of such company, and of all the facts therein stated. And all articles of asso-

Certified copy of articles and annexed affidavit to be evidence of incorporation.

Articles to be recorded by secretary of state.

ciation filed in pursuance of this act, together with all subsequent alterations and amendments thereof, and also the affidavit annexed thereto, shall be forthwith recorded in the office of the secretary of state in a book to be provided by him for that purpose; said record to be made at the expense of the company filing the same.

Books of subscription to be opened.

SEC. 3. The commissioners for opening books of subscription named in the articles of association, shall, from time to time, after the company shall have been incorporated, open books of subscription to the capital stock of the company, in such places and after giving such notice as a majority of them shall direct, which books shall be kept open until all the capital stock shall be subscribed; and in case a greater amount of stock shall be subscribed than the whole of the capital of said company, the commissioners shall distribute the same as equally as possible among such subscribers; but no share thereof shall be divided in making said distribution, nor shall a greater number of shares be allotted to any subscriber than shall have been subscribed for by him.

Notice to be given.

When more stock shall be subscribed than the whole capital, how to proceed.

Meeting to choose directors; where held; notice to be given.

SEC. 4. As soon as practicable after the capital stock shall have been subscribed and distributed as aforesaid, the commissioners shall appoint a time and place for the meeting of the stockholders to choose directors, which place of meeting shall be in one of the counties through which such rail-road is proposed to be constructed; and notice thereof shall be given by said commissioners for at least twenty days previous to such meeting, by publication in one of the daily papers published in the city of Detroit, and some newspaper published in each county through which said road is intended to run, in which a newspaper shall be published. Not less than seven nor more than thirteen directors shall be chosen, and the same shall be so chosen by ballot, and by a majority of the votes of the stockholders being present, in person or by proxy; and every such stockholder, being so present at such election, or at any subsequent election, shall be entitled to give one vote for every share of stock owned

Number of directors, and how chosen.

by him for ten days next preceding such election, and not otherwise. No person shall be a director unless he shall be a stockholder, owning stock absolutely and in his own name and right, and qualified to vote for director at the election at which he shall be chosen; and such directors shall hold their office for one year, and until others are elected in their places.

No person to be a director unless a stockholder.

Term of office.

Sec. 5. The commissioners named in the last preceding section shall be inspectors of the first election of directors; shall openly count the votes and declare the result, and shall, within ten days thereafter, file a certificate thereof, subscribed by them or a majority of them, in the office of the secretary of state, and shall also deliver to the treasurer of said company all moneys received by such commissioners on subscription to such capital stock, and all books and papers in their possession relative to such subscription. All subsequent elections shall be held at such time and place, in one of the counties through which such rail-road shall pass, as shall be directed by the by-laws of the company.

First election of directors.

Certificate of, when filed.

Subsequent elections.

Sec. 6. A general meeting of the stockholders shall be holden annually, at the time and place appointed for the election of directors, and a meeting may be called at any time by the directors or by the stockholders, owning not less than one-fourth of the stock, by giving public notice of the time and place of such meeting, in the same manner as is provided in section four of this act: *Provided*, That such notice, when given by the stockholders, shall state the object of the meeting; and if at any such meeting called by the stockholders, a majority in value of the stock is not represented in person or by proxy, the same shall be adjourned from day to day, not exceeding three days, without doing any business, when, if such majority do not attend, the meeting shall be dissolved.

Annual meeting of stockholders.

Notice of special meeting, what to contain.

Proceedings when majority do not attend.

Sec. 7. At a regular annual meeting of the stockholders of any corporation under this act, it shall be the duty of the president and directors in office for the preceding year, to exhibit a clear and full statement of the affairs

Duty of directors relative to reports.

of said company; and at any meeting of the stockholders, a majority of those present, in person or by proxy, may require similar statements from the directors, whose duty it shall be to furnish such statement when thus required; and at all general meetings of the stockholders, a majority in value of such stockholders may fix the rate of interest which shall be paid by the company for loans for the construction of said rail-road and its appendages, and may remove any president or any directors of said company, and elect others in their stead: *Provided*, Such notice shall have been given of such intended removal as shall be provided by the by-laws.

Rate of interest on loans, how fixed.

Officers may be removed.

President and other officers, to be chosen.

Sec. 8. There shall be a president of the company, who shall be chosen by and from the directors, and also such subordinate officers as the company by its by-laws shall direct, who may be elected or appointed, and required to give such security for the faithful performance of the duties of their office as the company by its by-laws may require.

Security required.

Directors may require payment of stock.

Sec. 9. The directors may require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed, in such manner and in such instalments as they may deem proper. If any stockholder shall neglect to pay any instalment as required by a resolution of the board of directors, the said board shall be authorized to sue for the same, or declare his stock and all previous payments thereon forfeited for the use of the company; but they shall not declare it so forfeited until they shall have caused a notice in writing to be served on him personally, or by depositing the same in the post-office, properly directed to him at the post-office nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in said notice, and that if he fails to make the same, his stock and all previous payments thereon will be forfeited for the use of the company; which notice shall be served as aforesaid, at least sixty days previous to the day on which such payment is required to be made.

How payment enforced.

Notice of sale of stock forfeited.

Directors may make by-laws.

Sec. 10. The directors shall have power to make by-laws for the management and disposition of the stock, property and business affairs of such company, not inconsistent with the laws of this state, and prescribing the duties of officers, artificers and servants that may be employed, and for the appointment of all officers for carrying on the business within the objects and purposes of such company.

Stock to be personal estate and transferable.

Sec. 11. The stock of such company shall be deemed personal estate, and shall be transferable in the manner and under such restrictions and conditions as may be provided by the by-laws, but no shares shall be transferable until all previous calls thereon shall have been fully paid in, or said shares shall have been forfeited.

Individual liability of stockholders for debts.

Sec. 12. All the stockholders of any such company shall be severally individually liable to the creditors of said company, to an amount equal to the amount of stock held by them respectively, for all debts and contracts made by such company, until the whole amount of stock held by him shall have been paid in, and a certificate thereof have been made and recorded as prescribed in the following section; but all the stockholders of any such company shall be individually liable for all labor performed for such company, but shall not be liable to an action therefor before an execution shall be returned unsatisfied in whole or in part against the corporation; and the amount due on such execution shall be the amount recoverable, with costs, against any such stockholder; and every such stockholder against whom any such recovery for such labor shall have been had, shall have a right to recover the same of the other stockholders in said corporation, in ratable proportion to the amount of the stock they shall respectively hold with himself.

Ibid. for labor.

Execution against company to be first returned unsatisfied.

Contribution may be enforced.

Certificate of stock, how made and attested.

Sec. 13. The president and a majority of the directors, within thirty days after the payment of the last instalment upon any shares of the capital stock, shall make a certificate stating the amount of stock so paid in full, and by whom it is held and paid, and the number of such share

or shares so paid in, which certificate shall be signed by the president and a majority of the directors, and sworn to by the president and secretary; and they shall, within the said thirty days, file and record the same in the office of the secretary of state.

Penalty for declaring dividend when company insolvent, &c.

SEC. 14. If the directors of any corporation, organized under this act, shall declare and pay any dividend when the company is insolvent, or the payment of which would render it insolvent, they shall be severally liable to a penalty of five hundred dollars.

Penalty for false representations in reports.

SEC. 15. If any certificate or report made, or public notice given by the officers of any such company, in pursuance of the provisions of this act, shall be wilfully false in any material representations, all the officers who shall have signed the same, knowing it to be false, shall be severally liable to a penalty of five hundred dollars each.

Map of route to be made and filed.

SEC. 16. Every such company proceeding to construct a part of their road into or through any county named in their certificate of association, shall make a map of the route intended to be adopted by such company, which shall be certified by a majority of the directors, and filed in the office of the register of deeds of such county, for inspection and examination of all persons interested therein.

Powers and liabilities.

SEC. 17. Every such corporation shall possess the general powers, and be subject to the liabilities and restrictions following, that is to say:

To make surveys, &c.

1. To cause such examination and surveys for the proposed rail-roads to be made as may be necessary to the selection of the most advantageous route for the road, and for such purposes, by their officers, agents and servants, to enter upon lands or waters of any person or company, but subject to liability for all damages which they shall do thereto.

To take donations, &c.

2. To receive, hold and take such voluntary grants and donations of real estate and other property as shall be made to it, to aid in the construction, maintenance and accommodation of such road; but the real estate thus

received by voluntary grant, shall be held and used for the purposes of such grant only.

To purchase and take property necessary for construction of road.

3. To purchase, and by voluntary grants and donations receive and take, and by its officers, engineers, surveyors and agents, enter upon and take possession of, hold and use, all such lands and real estate and other property as may be necessary for the construction and maintenance of its rail-road and stations, depots and other accommodations, but not until the compensation to be made therefor, as agreed upon by the parties, or ascertained as hereinafter prescribed, be paid to the owners thereof, or deposited as hereinafter directed, unless the consent of such owner be given therefor.

Owners to be compensated.

Width of road, &c.

4. To lay out its road, not exceeding six rods wide, and to construct the same; and for the purpose of cutting embankments, and procuring stone and gravel, may take as much more lands within the limits of its charter, in the manner hereinafter provided, as may be necessary for the proper construction and security of the road.

To cross roads, &c.

5. To construct their road across any stream of water, water-course, private road, highway, plank-road, rail-road or canal, which the route of its road shall intersect; but the corporation shall restore the stream, or water-course, private road, highway, plank-road, rail-road or canal, to its former state, as near as may be.

Intersection with other roads.

6. To cross, intersect, join and unite its rail-road with any other rail-road now or hereafter constructed, whether the same be so constructed under this act, or under any charter now or hereafter granted, at any point on its route, and upon the grounds of such other rail-road company, with the necessary turn-outs, sidings and switches, and other conveniences, in furtherance of the object of its connections; and to make all such running and business arrangements as said companies may agree upon; and every company whose rail-road shall be intersected by any new rail-road, shall unite with the owners of such new rail-road in forming such intersections and connections, and grant the facilities aforesaid; and if the two

When corporations cannot agree commissioners to be appointed.

corporations cannot agree upon the amount of comp ensation to be made for such crossings and connections, or the points or manner thereof, the same shall be ascertained and determined by commissioners, to be appointed by the court, as is provided hereinafter for the taking of lands and other property, and to purchase or to take lands, franchises or other property, as hereinafter provided, which shall be necessary for the construction of its road, and may change the line of its road, whenever a majority of its directors shall so determine; but no such change shall vary the original route of such road to exceed five miles laterally, without the consent of the stockholders.

May change line of road.

To transport persons and property.

7. To take, transport, carry and convey persons and property on their said road, by the force and power of steam, of animals, or any mechanical powers, or by any combination of them, and receive tolls and compensation therefor.

To erect depots and fixtures.

8. To erect and maintain all necessary and convenient buildings, stations, depots and fixtures, and machinery, for the accommodation and use of their passengers, freight and business, and obtain and hold the lands necessary therefor.

Transportation; compensation therefor.

9. To regulate the time and manner in which passengers and property shall be transported, and the tolls and compensation to be paid therefor; but such compensation for any passenger and his ordinary baggage shall not exceed three cents a mile, unless by special act of the legislature, and shall be subject to alteration, as hereinafter provided.

How to acquire rights when unable to agree for purchase.

Sec. 18. In case any rail-road company is unable to agree for the purchase of any real estate, property or franchise required for the purpose of its incorporation, and when it shall have failed to secure the same by legal proceeding, it shall have the right to acquire the title to the same in the manner and by the special proceeding prescribed in this act, but there shall be no power except for crossing, to take the track or rights of way of any

other rail-road company without the consent of said company.

Petition to circuit court.

Sec. 19. For the purpose of acquiring such title, such company may present a petition to the circuit court for such county, at any session thereof, praying for the appointment of three commissioners; said petition shall be in the name of the company, and shall be signed by one of the directors, or the engineer or attorney of said company on its behalf, and shall be verified by the oath of the person so signing the same, and shall contain a description of the real estate, property or franchise which the company seeks to acquire, and state that such company is duly incorporated, and that it is the intention of the company in good faith to construct and finish a rail-road from and to the places named for that purpose in its articles of association; that the capital stock of the company has been in good faith subscribed as required by this act; that the company have surveyed the route of its proposed road in said county, and made a map and survey thereof, by which such route is designated, and that they have located their said road according to such survey, and filed a certificate thereof, signed by a majority of the directors of said company, in the clerk's office of such county; that the property described in the petition is required for the purpose of constructing, operating or repairing the proposed road or its appurtenances, and that the company has not been able to acquire title thereto, and the reason of such inability. The petition must also state the names and places of residence of the parties, so far as the same can with reasonable diligence be ascertained, who own, or have or claim to own, or have estates or interests in said property, and if any such persons are infants, their ages, as near as may be, must be stated; and if any of them are idiots or persons of unsound mind, or are unknown, it must be so stated, together with such other facts and allegations as to incumbrances or otherwise, as the company may see fit; to make a copy of such petition, with a notice of the

Contents thereof, how attested, &c.

Copy of petition and notice to be served.

time and place the same will be presented to such court, must be served on all persons whose interests are affected by the proceedings, at least ten days prior to the presentation of the same to the court, as follows:

Service of notice, how made, &c.

1. If the person on whom such service is to be made resides in this state, and is not an infant, idiot or person of unsound mind, service of a copy of such petition and notice must be made on him or his agent or attorney authorized to contract for the sale of the real estate described in the petition, personally or by leaving the same at the usual place of residence of such person, with some person of suitable age; and if he resides out of this state, but has such agent as aforesaid residing in this state, then service may be made on such agent in the manner aforesaid, or upon him personally out of this state, or it

When notice to be published.

may be made by publishing a notice, stating briefly the object of the application, and giving a description of the land or property to be taken, in some daily paper published in the city of Detroit, and in a paper printed in the county in which such lands or property are situate, if there be one, once in each week for six weeks next previous to the presentation of the petition; and if the residence of such person residing out of this state be known, a copy of such petition shall be deposited in the post-office at least thirty days previous to presenting such petition, directed to such person at his place of residence as near as may be, and the postage in the United States paid thereon.

Where owner is a minor or idiot, how served.

2. If any person on whom such service is to be made is a minor, or an idiot, or person of unsound mind, and resides in this state, such service shall be made as aforesaid on his guardian or committee, as the case may be, or if none, then on the person who has the care of, or with whom such infant, idiot or person of unsound mind resides; but if such infant be over the age of fourteen years, then such service shall be upon him personally.

If residence unknown, &c.

3. If the person on whom such service is to be made be unknown, or his residence is unknown, then such ser-

vice may be made by publication for six weeks in the same manner provided in the first subdivision of this section.

When court to appoint special guardian, &c.

4. In case any party to be affected by the proceedings, is an infant, idiot or of unsound mind, and has no guardian or committee, the court shall appoint a special guardian or committee to attend to the interests of such infant, idiot or person of unsound mind; and all notices required to be served in the progress of the proceedings may be served on such special guardian or committee.

Court to direct how to serve notice in certain cases.

5. In all cases not otherwise provided for, service of orders, notices and other papers in the proceedings authorized by this act, may be made as such court shall direct.

Parties may show cause against petition, &c.

SEC. 20. On presenting such petition to the circuit court as aforesaid, with proof of service of a copy thereof and notice as aforesaid, all persons whose estate or interest is to be affected by the proceedings, may show cause against the prayer of the petition, and may disprove any of the facts alleged therein. The court shall hear the proofs and allegations of the parties, and if no sufficient cause is shown against granting the prayer of the petition, it shall make an order for the appointment of three disinterested and competent freeholders, not residing or owning real estate in any township through which such road is to run, as commissioners, to ascertain and determine the necessity for taking such lands, franchises or other property, and to appraise and determine the damages or compensation to be allowed to the owners and persons interested in the real estate or property proposed to be taken in such county for the purposes of the company, and such court shall fix the time and place for the first meeting of such commissioners: *Provided*, That any person or company whose estate or interest is to be affected by the proceedings, may demand and have from such court a jury of twelve freeholders, residing in the vicinity of such property, to ascertain and determine the necessity for taking such lands, franchise or other property, and to appraise and determine the damages or compensation to be allowed therefor; and thereupon the

Commissioners to be appointed to determine damages, &c.

Owners may demand jury of twelve.

said court shall make an order for the drawing of such jury from the petit jury-box of the county, and the clerk shall thereupon draw twelve names from such box accordingly, and shall issue a *venire* in the usual form, inserting therein the twelve names so drawn, and requiring such jury to meet at the time and place appointed therefor by the court, which said *venire* may be served by the sheriff or other proper officer of the county, as in other like cases, and if no such jury be demanded, the same shall be deemed to have been waived.

How jury to be drawn and summoned.

Oath of commissioners, their power, &c.

SEC. 21. The commissioners shall take and subscribe the oath prescribed by the eighteenth article of the constitution. Any of them may issue subpœnas, administer oaths to witnesses, and a majority of them may adjourn the proceedings before them from time to time, in their discretion. Whenever they meet, except by the appointment of the court or by previous adjournment, they shall cause reasonable notice of such meeting to be given to the parties who are to be affected by their proceedings, or the attorneys or agents of such parties; they shall view the premises described in the petition, and hear the proofs and allegations of the parties, and reduce the testimony, if any is taken by them, to writing; and after the testimony is closed in each case, and without any unreasonable delay, and before proceeding to the examination of any other claim, a majority of them all being present and acting, shall ascertain and determine the necessity of taking and using any such real estate or property for the purposes proposed; and if they deem the same necessary to be taken, they shall ascertain and determine the damages or compensation which ought justly to be made by the company, on account of any damage, or on account of the construction, repairing or operating of said rail-road or its appurtenances, to the party or parties owning or interested in the real estate or property appraised by them; they or a majority of them shall also determine and certify what sum ought to be paid to the general or special guardian or committee of an in-

When to notify parties.

To view the premises, take testimony, &c.

Decision.

fant, idiot or person of unsound mind, or to the clerk of the court, to be held for an unknown party in interest not personally served with notice of the proceedings, and who has not appeared, for costs or expenses and counsel fees. They shall make a report to the court by which they are appointed, signed by them, or a majority of them, of the proceedings before them, with the minutes of the testimony taken by them, if any. Said commissioners shall be entitled to three dollars for each day they are engaged in the performance of their duties, to be paid by the company; and in case a jury shall have been demanded and ordered by the court, pursuant to section twenty of this act, the said jury shall proceed to ascertain and determine the necessity of taking and using any such real estate or property, and as well the damages or compensation to be paid by the company therefor, in the same manner and with the like effect as is provided in this section in the case of commissioners, but they shall all be present and act together during the proceedings, and shall take and subscribe an oath that they will justly and impartially ascertain and determine the necessity of taking and using any such real estate or property for the purposes proposed, and if they deem the same necessary to be taken, will ascertain and determine the damages or compensation which ought justly to be made by the company for the same; and they shall be entitled to two dollars for each day they are engaged in the performance of their duties, to be also paid by the company.

Determine amount to be paid for expenses in certain cases.

To make report to court.

Compensation of commissioners.

Jury to proceed same as commissioners.

Oath of jurors.

Compensation of jurors.

Sec. 22. On such report being made by the commissioners or jury, the court, on motion of the company, shall confirm the same at the next term, or if said report is made and filed during term time, then the same shall be confirmed during said term, unless for good cause shown by either party; and when said report is confirmed, said court shall make an order containing a recital of the substance of the proceedings in the matter of the appraisal, and a description of the real estate or property appraised, for which compensation is to be made, and

Court on motion to confirm report.

To make order.

To direct to whom money shall be paid, or where deposited.

shall also direct to whom the money is to be paid, [or] where it shall be deposited by the company; said court, as to the confirmation of such report, shall have all the powers usual in other cases.

Copy of order to be recorded.

SEC. 23. A certified copy of the order so to be made shall be recorded at full length in the office of the register of deeds for said county, in the book of deeds; and thereupon, on the payment or deposit by the said company, of the sum to be paid as compensation for such land, franchise or other property, and for costs, expenses and counsel fees as aforesaid, and as directed by said order, the company shall be entitled to enter upon and take possession of, and use the said land, franchise and other property for the purposes of its incorporation; and all persons who have been made parties to the proceedings, either by publication or otherwise, shall be divested and barred of all right, estate and interest in such real estate, franchise or other property, until such right or title shall be again legally vested in such owner; and all real estate or property whatsoever, acquired by any company under and in pursuance of this act, for the purpose of its incorporation, shall be deemed to be acquired for public use. Within twenty days after the confirmation of the report of the commissioners or jury, as above provided for, either party may appeal by notice in writing to the other, to the supreme court, from the appraisal or report of the commissioners or jury; such appeal shall be heard by the supreme court at any general or special term thereof, on such notice thereof being given according to the rules and practice of the court; on the hearing of such appeal the court may direct a new appraisal before the same, or new commissioners or jury, in its discretion. The second report shall be final and conclusive upon all parties interested. If the amount of the compensation to be allowed by the company is increased by the second report, the difference shall be a lien on the land appraised, and shall be paid by the company to the parties entitled to the same, or shall be deposited as the court

When property to vest in corporation.

Deemed to be for public use.

When parties may appeal to supreme court.

Costs of appeal in case damages are increased.

shall direct; and in such case all costs of the appeal shall be paid by the company; but if the amount is diminished, the difference shall be refunded to the company by the party to whom the same may have been paid, and judgments therefor and for all costs of the appeal shall be rendered against the party so appealing; on the filing of the report, such appeal, when made by any claimant of damages, shall not affect the said report as to the right and interests of any party, except the party appealing, nor shall it affect any part of said report in any case, except the part appealed from, nor shall it affect the possession by such company of the land appraised; and when the same is made by others than the company, it shall not be heard except on a stipulation of the party appealing not to disturb such possession.

Where damages are diminished.

Appeal not to affect any parties except the parties to the appeal.

Sec. 24. If there are adverse or conflicting claimants to the money, or any part of it, to be paid as compensation for the real estate or property taken, the court may direct the money to be paid into the said court by the company, and may determine who is entitled to the same, and direct to whom the same shall be paid, and may, in its discretion, order a reference to ascertain the facts on which such determination and order are to be made.

Conflicting claims, how determined.

Sec. 25. The court shall appoint a competent attorney to appear for and protect the rights of any party in interest who is unknown, or whose residence is unknown, and has not appeared in the proceedings by an attorney or agent; the court shall also have power at any time to amend any defect or informality in any of the special proceedings authorized by this act, as may be necessary, or to cause new parties to be added, and to direct such further notices to be given to any party in interest as it deems proper; also to appoint other commissioners in the place of any who shall die, or refuse or neglect, or are unable to serve, or who may leave or be absent from the state.

Court to appoint attorney in certain cases.

Commissioners.

Sec. 26. At any time after an attempt to acquire title by any rail-road company by an appraisal of damages or

If title defective, company may proceed anew, and in such case authorized to continue in possession.

otherwise, if it shall be found that the title thereby attempted to be acquired is defective, the company may proceed anew to acquire or perfect the same in the same manner as if no appraisal had been made; and at any stage of such new proceedings the court may authorize the corporation, if in possession, to continue in possession, and if not in possession, to take possession of and use such real estate or other property during the pendency and until the final conclusion of such new proceedings, and may stay all actions or proceedings against any company, or any officer or workmen of such company on account thereof, on such company paying into court a sufficient sum, or giving security as the court may direct, to pay the compensation therefor when finally ascertained; and in every such case the party interested in such real estate or other property may conduct the proceedings to a conclusion, if the company delays or omits to prosecute the same.

Corporation may borrow money, issue bonds, mortgage property, &c.

SEC. 27. All companies organized under this act, (and all other rail-road companies,) shall have power from time to time to borrow such sums of money as they may deem necessary for completing and finishing or operating their rail-road, and to issue and dispose of their bonds for any amount so borrowed for such sums and at such rate of interest as they may deem advisable, and to mortgage their corporate property and franchises to secure the payment of any debt contracted by the company for the purposes aforesaid; and the directors of the company may confer on any holder of any bond issued for money borrowed as aforesaid, the right to convert the principal due or owing thereon into stock of said company at any time, not exceeding twenty years from the date of said bond, under such regulations as the company may see fit to adopt; and such company may sell their bonds either within or without this state, at such rates and prices as they may deem proper; and in case the capital stock of any such rail-road company is found to be insufficient for constructing or operating its road, or for building a

Bonds convertible.

When capital stock may be increased.

double track, repairs or other improvement, to facilitate the transportation of persons and property, such company may, with the concurrence of a majority of its stockholders, by vote at any annual meeting, or special meeting called for that purpose, increase its capital stock to the requisite amount.

Highway may be carried over or under track.

SEC. 28. Whenever the track of any rail-road crosses or shall cross a road or highway, such road or highway may be carried under or over the track, as may be found most expedient; and in case where an embankment or cutting shall make a change in the line of such road or highway desirable, with a view to a more easy ascent or descent, the said company may take such additional lands for the construction of such road or highway, or such new line, as may be deemed requisite by said directors, unless the lands so taken shall be purchased or voluntarily given for the purposes aforesaid; the necessity thereof and the compensation therefor shall be ascertained in the manner in this act provided, as nearly as may be, and duly made by said corporation to the owners and persons interested in such lands; the same, when so taken or compensation made, to become part of such intersecting road or highway, in such manner and by such terms as the adjacent parts of the same highway may be held for highway purposes.

When line of highway may be changed.

When and how line of railroad may be changed.

SEC. 29. If at any time after the location and use of the track of any rail-road company organized under the provisions of this act, it shall appear to the directors of said company that the line in some parts thereof may be improved, it shall be lawful for said directors from time to time to alter the lines, and cause a new map to be filed in the office where the map showing the first creation of such company is or shall be filed, and the register's office of any county through which, by means of such change, said road shall pass, or into which it shall run; and when a new line is adopted, to take possession of the lands embraced in such new location that may be required for the construction and maintenance of said road on such

new line, and the convenient accommodations appertaining to the same, either by agreement with the owner or owners, or by such proceedings, as near as may be, as are authorized under the preceding sections of this act, and use the same in place of the line for which the new is substituted. Nothing in this act contained shall authorize the said company to make a location of their track within any city without the consent of the common council of said city, nor in any incorporated village without the consent of the corporate authorities thereof.

Rail-road not to be located in any city without consent of corporate authorities.

Lands owned by state, counties or townships, how acquired.

SEC. 30. If any such corporation shall, for its purpose aforesaid, require any land belonging to the people of this state, or to any of the counties or towns, the commissioner of the land office and the county and town officers respectively having charge of said lands, may grant such lands to such corporation for a compensation which shall be agreed upon between them; or in case they cannot so agree, then such lands shall be appraised as in other cases; all notices in cases where the state is owner, to be served upon the commissioner of the land office; when the county is the owner, upon the prosecuting attorney of such county, and when the township is the owner, upon the supervisor of such township.

Conductors, &c., to wear badges.

SEC. 31. Every conductor, baggage-master, engineer, brakeman or other servant of such rail-road corporation, organized under the provisions of this act, or otherwise created, employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and the initial letters of the style of the corporation by which he is employed. No conductor or collector, without such badge, shall demand or be entitled to receive from any passenger any fare, toll or ticket, or to exercise any of the powers of his office; and no other of said officers or servants, without such badge, shall have any authority to meddle or interfere with any passenger, his baggage or property. No person shall be employed as an engineer, fireman, baggage-master, conductor or other servant, upon any rail-road, who

Shall have no authority without such badge.

Use of intoxicating drinks prohibited.

uses intoxicating drinks as a beverage; and any company in whose service any such person shall be employed, shall be liable to a penalty of twenty-five dollars for every such offence, to be sued for in the name of the people of this state: *Provided*, That no such company shall be liable to said penalty, unless it shall appear that the superintendent, or other officers having charge or supervision over such employee, or whose duty it is to report the misconduct of such employee so using intoxicating liquor, had knowledge of the fact that such employee used, or had used, while in the employ of such rail-road company, such liquor.

Liability of company.

Proviso.

SEC. 32. Every rail-road corporation in this state shall make an annual report to the auditor-general, which report shall be verified by the oath of the treasurer or president and acting superintendent, of the operations of the year ending on the first day of January in each year, and shall state—

Annual report to be made to auditor-general

1. The capital stock and the amount actually paid in.

Contents of report.

2. The amount expended for the purchase of lands for the construction of the road, for buildings, and for engines and cars respectively.

3. The amount and nature of its indebtedness, and the amounts due the corporation.

4. The amount received for the transportation of passengers, of property, of mails and from other sources.

5. The amount of freight—specifying the quantity in tons—of the products of the forest, of animals, of vegetable food and other agricultural products, manufactures, merchandise and other articles.

6. The amount paid for repairs, engines, cars, buildings and salaries.

7. The number and amount of dividends, and when paid.

8. The number of engine houses and shops, of engines and cars, and their character.

9. The number of miles run by passenger, freight and other trains respectively.

10. The number of men employed, and their occupation.

11. The number of persons injured in life or limb, and the cause of such injury.

12. Whether any accidents have arisen from carelessness or negligence of any person in the employment of the corporation, and whether such person is retained in the service of the corporation.

Penalty for making false report.

SEC. 33. Any such corporation, which shall neglect to make such report, or which shall wilfully make a false report, shall be liable to a penalty of two hundred and fifty dollars, to be sued for in the name of the people of this state. It shall be the duty of the auditor-general to arrange the information contained in such reports in a tabular form, and prepare the same, together with the said reports, in a single document for printing, for the use of the legislature, on the first day of its regular session.

Duty of auditor-general.

Lien of the state upon rail-roads, &c.

SEC. 34. This state shall have a lien upon all rail-roads therein, and their appurtenances and stock therein, for all penalties, taxes and dues which may accrue to the state from the corporations owning the same, which lien of the state shall take precedence of all demands, judgments or decrees against said corporations; and each citizen of this state shall have a lien upon all the personal property of said corporations, for all penalties, dues and demands against any such corporation, to the amount of one hundred dollars, originally contracted within this state, which, after said lien of the state, shall take precedence of all other debts, demands, judgments or decrees, liens or mortgages, against said corporation.

Lien of citizens.

Legislature may reduce rates of fare, &c., in certain cases.

SEC. 35. The legislature may, when any rail-road organized under this act is opened for use, from time to time alter or reduce the rates of toll, fare, freight or other profits upon such road; but the same shall not, without the consent of the corporation, be so reduced as to produce less than fifteen per cent. per annum on the capital actually paid in; nor, unless on an examination of the

amounts received and expended, to be made by the auditor-general, he shall ascertain that the net income divided by the company from all sources for the year then last past shall have exceeded an annual income of fifteen per cent. upon the capital of the corporation actually paid in.

Corporation required to carry mails, &c.

SEC. 36. Any corporation organized under this law shall, when applied to by the postmaster-general, convey the mails of the United States on their road or roads respectively; and in case such corporation shall not agree to the rates of transportation thereof, and as to time, rate of speed, manner and condition of carrying the same, it shall be lawful for the governor of this state to appoint three commissioners, who, or a majority of them, after fifteen days' notice in writing of the time and place of meeting, to the corporation, shall determine and fix the prices, times and conditions aforesaid; but such prices shall not be less for conveying said mails, in the regular passenger trains, than the amount which said corporation would receive as freight on a like weight of merchandise, transported on their merchandise train, and a fair compensation for the post-office car. And in case the postmaster-general shall require the mail to be carried at other hours and at a higher speed than the passenger trains be run at, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses and wear and tear thereof, and for the services to be fixed as aforesaid.

When commissioners to be appointed to fix compensation.

Passengers refusing to pay, may be put out.

SEC. 37. If any passenger shall refuse to pay his fare or toll, it shall be lawful for the conductor of the train and servants of the corporation to put him out of the cars at any usual stopping place or dwelling-house the conductor shall select.

Cars, &c., to be run at regular times, to be fixed by notice.

Corporation to furnish accommodations.

SEC. 38. Every corporation in the last section mentioned shall start and run their cars for the transportation of passengers and property at regular times, to be fixed by public notice, and shall furnish sufficient accommodation for the transportation of all such passengers and property as shall, within a reasonable time previous thereto, offer or

be offered for transportation at the place of starting, and the junctions of other rail-roads, and at siding and stopping places established for discharging and receiving way passengers and freight, and shall take, transport and discharge such passengers and property at, from and to such places, on the due payment of toll, freight or fare, legally authorized therefor; and every such corporation shall transport merchandise, property and persons from the various stations upon said road, without partiality or favor, when not otherwise directed by the owner of said property, and with all practicable dispatch, and in the order in which said freight and property shall have been received, under a penalty for each violation of this provision, of one hundred dollars, to be recovered by the party aggrieved, in an action of debt against such corporation.

Penalty.

Liable for damages to party aggrieved.

SEC. 39. In case of the refusal by such corporation or agents so to take and transport any such passengers or property as aforesaid, or to deliver the same, or either of them, at the regular or appointed time, without a legal or just excuse for such default, such corporation shall pay to the party aggrieved all damages which shall be sustained thereby, with costs of suit, or the penalty prescribed in section 38 of this act, at the election of the party aggrieved.

Bell and whistle.

SEC. 40. A bell of at least thirty pounds weight, and a steam whistle, shall be placed on each locomotive engine, and said bell shall be rung or whistle sounded at the distance of not less than eighty rods of the place where the said road shall cross any other road or street, under a penalty of fifty dollars for every neglect, to be paid by the corporation owning such rail-road, and the rail-road corporation shall also be liable for all damages which shall be sustained by any person by reason of such neglect.

Penalty for neglect.

Caution boards to be erected at road-crossings.

SEC. 41. Every rail-road corporation shall, and they are hereby authorized to cause boards to be placed, well supported by posts or otherwise, and maintained across each public road or street, where the same is crossed by

the rail-road and on the same level; the boards shall be elevated so as not to obstruct the travel, and to be easily seen by travellers, and on each side of said board shall be printed in capital letters, of the size of not less than nine inches each, the words, "rail-road crossing; look out for the cars!" But this section shall not apply to streets in cities or villages, unless the rail-road corporation be required to put up such boards by the officers having charge of such streets.

Person having charge of engine, being intoxicated, liable for all damages.

SEC. 42. If any person shall be intoxicated, while in charge of a locomotive engine, running upon the rail-road of any corporation in this state, or while acting as the conductor of any train of cars on any such rail-road, he shall be liable for all damages incurred or produced by either his neglect or inefficiency, and shall be deemed guilty of a misdemeanor.

Corporation to maintain fences, &c.

SEC. 43. Every rail-road corporation formed under this act shall erect and maintain fences on the sides of their road, of the height and strength of a division fence required by law, with suitable openings and gates therein, and convenient farm crossings of the road, for the use of the proprietors of lands adjoining such rail-road, and also to construct and maintain cattle guards at all road crossings, suitable and sufficient to prevent cattle and animals from getting on to the rail-road; until such fences and cattle guards shall be duly made, the corporation and its agents shall be liable for all damages which shall be done by their agents or engines to cattle, horses or other animals thereon, and all other damages which may result from the neglect of said corporation to erect and maintain fences and farm crossings as aforesaid; and after such fences and guards shall be duly made and maintained, the corporation shall not be liable for any such damages unless negligently or wilfully done; and if any person shall ride, lead or drive any horse or animal upon such road, and within such fences and guards, other than at farm crossings, without the consent of the corporation, he shall for every such offence forfeit a sum

Liability of company for damages until fences are erected.

Not liable after fences erected.

not exceeding ten dollars, and shall also pay all damages which shall be sustained thereby, to the party aggrieved.

Passengers injured while violating regulations, not to recover damages.

SEC. 44. In case any passenger on any rail-road shall be injured while on the platform of a car, or on any baggage, wood or freight car, in violation of the printed regulations of the company, posted up at the time in a conspicuous place inside its passenger cars then in the train, such company shall not be liable for the injury: *Provided*, Said company at the time furnished room and seats inside its passenger cars sufficient for the proper accommodation of its passengers.

Tax to be paid to state treasurer.

SEC. 45. Every corporation formed under the provisions of this act shall, on or before the first day of July, pay the state treasurer an annual tax of one per cent. on the capital stock of said company paid in, which tax shall be in lieu of all other taxes upon the property of said company, whether real, personal or mixed, except penalties by this act imposed; the said tax shall be estimated upon the last annual report of said corporation, but nothing contained in this section shall apply to any existing corporations.

Penalties, how recovered.

SEC. 46. All penalties incurred under the provisions of this act, when not otherwise provided for, may be sued for in the name of the people of the state of Michigan; and if such penalty be for a sum not exceeding one hundred dollars, then suit may be brought before a justice of the peace.

When incorporation to become void.

SEC. 47. If any rail-road corporation shall not, within three years after its incorporation, begin the construction of its road, and expend thereon ten per cent. on the amount of its capital, and finish the road and put it in full operation in seven years thereafter, its act of incorporation shall become void, so far as it applies to that portion of said road then unfinished.

To have the rights and liabilities of common carriers.

SEC. 48. Any rail-road company receiving freight for transportation shall be entitled to the same rights and subject to the same liabilities as common carriers, except as herein otherwise provided. Whenever two or more

rail-roads are connected together by running arrangements, any company owning either of said roads receiving freight to be transported by agreement to any place on the line of either of the said roads so connected, shall be liable as common carriers for the delivery of such freight at such place. In case any such company shall become liable to pay any sum, by reason of the neglect or misconduct of any other company or companies, the company paying such sum may collect the same of the company or companies by reason of whose neglect or misconduct it became so liable. No rail-road corporation created in this state shall be suffered to lessen or directly or indirectly abridge their common law liability as such common carriers.

Not to abridge their law liability, &c.

Sec. 49. Any rail-road company in this state may, by means of subscription to the capital of any other company, or otherwise, aid such company in the construction of its rail-road, with the assent of such other company; or any rail-road company, in order to facilitate the transaction of business, and prevent the expense to the public of delays, stoppages and unnecessary transhipment of merchandise and passengers, may make any arrangements with other rail-road companies within or without this state, for the running of its cars over the road of such other company, or for the working and operating of such other rail-roads as said companies shall mutually agree upon; such agreement, however, to be filed in the office of the secretary of state, and be open to the inspection of the public; and any two or more rail-road companies whose lines are connected, may enter into any arrangements for their common benefit, consistent with and calculated to promote the objects for which they were created: *Provided*, That no such aid shall be furnished nor arrangement perfected until a meeting of stockholders of each of said companies shall have been called by the directors thereof, at such time and place and in such manner as they shall designate, and the holders of a ma-

May take stock in other companies.

May make arrangements with other companies for running cars

Meeting of stockholders to be first called, &c.

jority in interest of the stock of such company represented at such meeting, in person or by proxy, and voting thereat, shall have assented thereto.

When companies may consolidate.

SEC. 50. Any rail-road company in this state, forming a continuous or connected line with any other rail-road company, may consolidate with such other company either in or out of this state, into a single corporation: *Provided*, That no such companies having parallel lines or lines diverging and converging, but being conterminous, shall be permitted to consolidate themselves into one corporation.

How consolidation to be effected.

The directors of said two or more corporations may enter into an agreement under the corporate seal of each, for the consolidation of the said two or more corporations, prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number of the directors thereof, which shall not be less than seven nor more than thirteen, the time and place of holding the first election of directors, the number of shares of capital stock in the new corporation, the amount of each share, the manner of converting the shares of capital stock in each of said two or more corporations into shares in such new corporation, with such other details as they shall deem necessary to perfect such consolidation of said corporations; and such new corporation shall possess all the powers, rights and franchises conferred upon such two or more corporations, and shall be subject to all the restrictions and perform all the duties imposed by the provisions of their respective charters or laws of organization, not inconsistent with the provisions of this act.

Agreement to be submitted to stockholders.

Such agreement of the directors shall not be deemed to be the agreement of the said two or more corporations until after it has been submitted to the stockholders of each of said corporations separately, at a meeting thereof, to be called as aforesaid, and has been sanctioned by such stockholders by the vote of a majority in interest of the stockholders present at such meeting, in person or by proxy, and voting, each share of capital stock being entitled to

one vote; and when such agreement of the directors has been so sanctioned by each of the meetings of the stockholders separately, after being submitted to such meeting in the manner above mentioned, then such agreement of the directors shall be deemed to be the agreement of the said two or more corporations.

When agreement is completed, filed, &c., the two corporations to be merged in one.

SEC. 51. Upon making the agreement mentioned in the preceding section, in the manner required therein, and filing a duplicate or counterpart thereof in the office of the secretary of state, the said two or more corporations mentioned or referred to in the said section, shall be merged in the new corporation provided for in such agreement, to be known by the corporate name therein mentioned, and the details of such agreement shall be carried into effect as provided therein.

Rights and interests of such new corporation.

SEC. 52. Upon the election of the first board of directors of the corporation created by said agreement, all and singular the rights and franchises of each and all of said two or more corporations, parties to such agreement, all and singular their rights and interests in and to every species of property and things in action, shall be deemed to be transferred to and vested in such new corporation, without any other deed or transfer; and such new corporation shall hold and enjoy the same, together with all the right of way and all other rights of property, in the same manner and to the same intent as if the said two or more corporations, parties to such agreement, should have continued to retain the title and transact the business of such corporations; and the titles and the real estate acquired by either of said two or more corporations shall not be deemed to revert or be impaired by means of anything in this act contained: *Provided*, That all rights of creditors, and all liens upon the property of either of said corporations, parties to said agreement, shall be, and hereby are preserved unimpaired, and the respective corporations shall continue to exist, so far as may be necessary to enforce the same: *And provided, further*, That all the debts, liabilities and duties of either company

Rights of creditors.

Debts, liabilities, &c.

shall thenceforth attach to such new corporation, and be enforced against the same, to the same extent and in the same manner as if such debts, liabilities and duties had been originally incurred by it.

Companies may agree on construction of road on line common to both companies.

SEC. 53. Whenever two rail-road companies shall, for a portion of their respective lines, embrace the same location of line, they may, by agreement, provide for the construction of so much of said line as is common to both of them, by one of the companies, and for the manner and terms upon which the business thereon shall be performed. Upon the making of such agreement, the company that is not to construct the part of the line which is common to both, may alter and amend its articles of association so as to terminate at the point of intersection, and may reduce its capital to a sum not less than ten thousand dollars for each mile of the road proposed to be constructed in such amended articles of association.

Not to release chartered company, &c.

Nothing in this act shall be construed to release any chartered company from building any line of road which by its charter it is obligated to build, or to transfer to any other company, by virtue of this section, or any agreement made in pursuance thereof, such obligation.

When death caused by neglect of company, to be liable for damages.

SEC. 54. Whenever the death of a person shall be caused by wrongful act, neglect or default of any rail-road company or its agents, and the act, neglect or default is such as would (if death had not ensued) entitle the party injured to maintain an action and recover damages in respect thereof, then, and in every such case, the rail-road corporation which would have been liable if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony.

Action to be brought in name of personal representative.

SEC. 55. Every such action shall be brought by and in the names of the personal representatives of such deceased person; and the amount recovered in any such action shall be for the exclusive benefit of the widow and next of kin of such deceased person, and shall be distributed

to such widow and next of kin in the proportion provided by law in relation to the distribution of personal property left by persons dying intestate; and in any such action the jury may give such amount of damages as they shall deem a fair and just compensation, not exceeding five thousand dollars, with reference to the pecuniary injuries resulting from such death to the wife and next of kin of such deceased person: *Provided*, That any such action shall be commenced within two years of the death of such person; but nothing herein contained shall affect any suit or proceedings heretofore commenced and now pending in any of the courts of this state.

Limitation of action.

Sec. 56. If any president, secretary or other officer of any rail-road corporation within this state, shall wilfully, and with intent to defraud said corporation or any other person, make, sign, issue, sell or offer to sell any false or fraudulent stock, or other evidence of debt of said corporation, he shall be deemed guilty of felony, and shall be punished by imprisonment in the state prison, at hard labor, not less than three years.

Punishment for issuing fraudulent stock, &c.

Sec. 57. Any conductor, engineer, servant or other employee of any rail-road corporation, who shall wilfully violate any of the written or printed rules thereof, in relation to the running of cars or train for the transportation of persons or property, shall be subject to a fine of not less than twenty-five nor more than one hundred dollars, or to imprisonment in the county jail not more than six months.

Punishment of employees for violating rules.

Sec. 58. If any person shall, by the placing of any impediment upon the track of any rail-road, or by any other means whatsoever, throw from said track any engine or cars used thereon, or attempt so to do, whether such engine or cars be thrown from said track or not, or shall by any other means whatsoever, wilfully endanger or attempt to endanger the lives of persons engaged in the work of said road, or persons travelling on the engine or cars of said road, he shall be subject to imprisonment in

Punishment of persons obstructing track, &c.

the state prison during his natural life, or any number of years, at the discretion of the court.

Check to be affixed to baggage.

SEC. 59. A check shall be fixed to every parcel of baggage, when taken for transportation, by the agent or servant of such corporation, if there is a handle, loop or fixture so that the same can be attached upon the parcel of baggage so offered for transportation, and a duplicate thereof given to the passenger or person delivering the same on his behalf; and if such check be refused on demand, the corporation shall pay to such passenger the sum of ten dollars, to be recovered in a civil action; and further, no fare or toll shall be collected or received from such passenger; and if such passenger shall have paid his fare, the same shall be refunded by the conductor in charge of the train; and on producing said check, if his baggage shall not be delivered to him, he may himself be a witness in any suit brought by him to prove the contents and value of such baggage.

Duplicate to be given to person owning baggage.

Unclaimed freight, baggage, &c., how disposed of.

SEC. 60. Every rail-road company which shall have had unclaimed freight not perishable, or unclaimed baggage in its possession for a period of one year at least, may proceed to sell the same at public auction, and out of the proceeds may retain the charges of transportation and storage of such freight, and the expense of advertising and sale thereof; but no such sale shall be made until the expiration of six weeks from the first publication of notice of such sale in at least one newspaper published in the city of Detroit, and also in one newspaper published at or nearest the place where such freight or baggage was directed to be left, and also at the place where such sale is to take place; and said notice shall contain a description of such freight or baggage; the place at which, and the time when, the same was left, as near as may be; together with the name of the owner or person to whom consigned, if known; and the expenses incurred for advertising shall be a lien upon such freight, in a ratable proportion, according to the value of each article, package or parcel, if more than one. In case

Notice to contain a description.

such unclaimed freight shall be in its nature perishable, then the same may be sold as soon as may be, on giving the notice required in this section, after its receipt at the place where it was directed to be left. Such rail-road company shall make an entry of the balance of the proceeds of the sale, if any, of each parcel of freight owned by or consigned to the same person, as near as can be ascertained; and at any time within five years thereafter, shall refund any surplus so retained, to the owner of such freight or baggage, his or her heirs or assigns, on satisfactory proof of such ownership.

To make an entry of the balance; how disposed of.

Sec. 61. Every passenger, freight or other train of cars running upon any rail-road shall come to a full stop before crossing any other rail-road built or constructed upon the same grade; and every engineer, conductor or other person having charge or control of such train of cars, who shall offend against the provisions of this section, shall forfeit for each offence the sum of one hundred dollars, to be recovered by action of debt; and any rail-road company who shall, by their rules and regulations for running trains of cars upon such rail-road, require any passenger, freight or other train to cross any other rail-road built or constructed upon the same grade, without coming to a full stop before such crossing, shall forfeit a like sum for every day such rule or regulation shall continue in force, to be recovered as aforesaid.

Full stop before crossing other rail-roads.

Sec. 62. In forming a passenger train upon any rail-road organized under the provisions of this act, baggage, freight, merchandise or lumber cars shall not be placed in rear of the passenger cars; and if they, or any of them, shall be so placed, the officer or agent who so directed or knowingly suffered such arrangement, shall be deemed guilty of a misdemeanor, and be punished accordingly.

Prohibition in forming passenger trains.

Sec. 63. All acts the subjects of which are herein re-enacted, or which contravene or are inconsistent with the terms and intention of this act, are hereby repealed.

Acts repealed.

Sec. 64. This act shall take effect immediately.

Approved February 12, 1855.

AN ACT

TO AUTHORIZE THE MICHIGAN SOUTHERN RAIL-ROAD COMPANY TO CONSOLIDATE WITH THE NORTHERN INDIANA RAIL-ROAD COMPANY.

Consolidation of roads authorized.

SEC. 1. *The people of the State of Michigan enact*, That the Michigan Southern Rail-Road is hereby authorized to consolidate with the Northern Indiana Rail-Road Company, of Indiana, by a vote of a majority in interest of the stockholders of each of said corporations, at meetings called for that purpose, or by the written assent of such majority, to be filed in the office of the secretary of state; and when said vote shall be passed, and such assent filed, and an agreement entered into, as provided in section 2, said corporations shall thereby be united and become one corporation, to be called the

Corporate name.

Michigan Southern and Northern Indiana Rail-Road Company; and all the franchises, property, powers and

Rights and liabilities.

privileges now enjoyed by the Michigan Southern Rail-Road Company, and all the restrictions, liabilities and obligations imposed upon said two corporations, by virtue of their respective charters, and all contracts by and with either or both of said corporations, shall appertain to said united corporation, in the same manner as if the same had been contained in or acquired under an original charter, or made by or with said consolidated corporation, and in the same manner as if such consolidation had not taken place; and all debts and demands against said Michigan Southern Rail-Road Company shall be enforced against said new corporation to the same extent and in the same manner as if such debts or demands had been originally incurred by it; and all obligations of said Michigan Southern Rail-Road Com-

pany, under the act entitled "An act to authorize the sale of the Southern Rail-Road, and to incorporate the Michigan Southern Rail-Road Company," and of the directors thereof, shall be transferred to said new corporation, and the directors thereof, and said new company shall cause its books to be opened for the purpose of receiving subscriptions to its capital stock for the purpose of extending said road, in the same manner and upon the same terms as the Southern Michigan Rail-Road Company would have been required to do, if such consolidation had not been made; and any person or persons may subscribe stock for the extension of either of the roads named in said section, in the same manner and upon the same terms as if no consolidation had taken place; and the directors of said new company shall cause the said road to be constructed in the same manner and upon the same conditions as said Michigan Southern Rail-Road Company would have been compelled to do, were it not for such consolidation; and the shares on the road so extended shall be entitled to a dividend of the net profits of said road, in proportion to the amount of instalments paid in on the respective shares of said company; and the persons so subscribing and paying, shall be stockholders in said new company, and entitled to all rights and privileges of the original stockholders of said new company, in the same manner and to the same extent as is contemplated by the original charter of the said Michigan Southern Rail-Road Company.

To be subject to all obligations of charter of Michigan Southern Rail-Road Company.

To open books, &c.

Construction of road, &c.

Rights of stockholders, &c.

Sec. 2. The directors of said corporations may enter into an agreement, under their respective corporate seals, for the consolidation of said corporations, prescribing the terms and conditions thereof; the mode of carrying the same into effect; the number of directors thereof, which shall not be less than seven nor more than thirteen; the names of the first directors of said united corporation; the time and place of holding the first election of directors; the day for holding the annual election of directors; the amount of capital and the number of shares of

Agreement for consolidation; contents thereof.

the stock of the new corporation, which shall not be larger in amount than the aggregate amount of capital authorized by the charters of the respective companies thus consolidated; the manner of converting the shares of capital stock in each of said corporations into the shares of such new corporation, with such other details as they may deem necessary to embrace in such agreement, not inconsistent with the provisions of their respective charters.

How taxed, &c.

SEC. 3. The said corporation so to be organized, by virtue of this act, shall continue subject to the same rate of tax as though such consolidation should not take place; and the amount of its capital and loans hereafter, upon which such taxation shall be paid, shall be such portion of the whole of its capital and loans as is actually employed in the state of Michigan, to be ascertained on or before the first day of January in each year, by the auditor-general of this state, from the annual report of said corporation, or from such other reports on oath as he may deem necessary for such purpose, to be ordered by him from the office of such corporation.

To fence rail-road.

SEC. 4. The said new company shall erect and maintain fences on the sides of their road, of the height and strength of a division-fence required by law, with suitable openings and gates thereon, and convenient farm-crossings of the road for the use of proprietors of land adjoining said rail-road, and also to construct and maintain cattle guards at all public road-crossings, except in cities and villages, suitable and sufficient to prevent cattle and animals from getting on to the rail-road; until such fences and cattle guards shall be duly made, such rail-road company and its agents shall be liable for all damages which shall be done by their agents or engines to cattle, horses or other animals thereon, and for all other damages consequent upon their refusal or neglect to maintain fences as aforesaid; and after such fences and guards shall be duly made and maintained, said company shall not be liable for any such damages, un-

Liable for damages to animals till road is fenced, &c.

less negligently or wilfully done; and if any person shall ride, lead or drive any horse or animal on such road, and within such fences or guards, other than road-crossings, without the consent of such company, he shall, for every such offence, forfeit a sum not exceeding ten dollars, and shall pay all damages which shall be sustained thereby, to the party aggrieved. Penalty for leading, driving, &c., animals on railroad.

Sec. 5. The said new corporation, so to be formed by such consolidation, shall at all times carry freight and persons to and from all its depots, way-stations and other places where it is accustomed to receive or deliver such freight or persons, with all practicable dispatch, without any favoritism or partiality whatsoever, (and as near as may be) shall forward from each of such depots, way-stations or places, in the order it is received thereat respectively, when desired by the owner thereof, all freight delivered to it for transportation; and in case of any neglect in either of the particulars before mentioned, said company shall be liable for all damages occasioned thereby to the owner of the property so delivered for transportation, in any form of action such owner may select; and said company shall in no case give any precedence or preference whatsoever in the time of transportation to through freight over way freight; and in case any such preference or precedence is given, said company shall be liable to a like action and damages therefor; and it shall also be liable to a like action and damages for all delays in the transportation of property, unless such delay shall be caused without any default, neglect or wrongful act whatsoever, on the part of such corporation or its agents or employees; and when an action for damages is given in this section, the party injured may sue for, and said company shall be liable for a penalty of one hundred dollars, instead of such action, at the election of the party owning any such property. Duty in conveying freight and passengers, &c. Liable for damages in certain cases

Sec. 6. This act shall take effect whenever the said companies shall accept the same; and their acceptance in writing, signed by the president and secretary of said When this act to take effect.

companies, under their corporate seals, shall be filed in the office of the secretary of state.

Approved February 13, 1855.

AN ACT

TO PROVIDE FOR A GENERAL SYSTEM OF RAIL-ROAD INCORPORATIONS, IN FORCE NOVEMBER, 1849.

Corporation, how formed.

SEC. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly*, That any number of persons, not less than twenty-five, being subscribers to the stock of any contemplated rail-road, may be formed into a corporation for the purpose of constructing, owning and maintaining such rail-road, by complying with the following requirements: When stock to the amount of at least one thousand dollars for every mile of said road, so intended to be built, shall be in good faith subscribed, and ten per cent. paid thereon as herein required, then the said subscribers may elect directors for the said company; thereupon they shall severally subscribe articles of association, in which shall be set forth the name of the corporation; the number of years the same is to continue, which shall not exceed fifty years; the amount of the capital stock of the company, which shall be the actual cost of constructing the road, together with the cost for the right of way, motive power, and every other appurtenance for the completion and running of said road, as nearly as can be estimated by competent engineers; the number of shares of which said stock shall consist; the number of directors, and their names, to manage the concerns of the company, who shall not be one-half in the number of the stockholders, and shall hold their offices until others are elected; the place from and to which the proposed road is to be constructed, and each county into or through which it is intended to pass,

Directors.

Articles of Association.

and its length, as near as may be, and the names of five commissioners to open books of subscription to the stock. Each subscriber to such articles of association shall subscribe thereto his name place of residence, and the number of shares of stock taken by him in such company. The said articles of association may, on complying with the next section, be filed in the office of secretary of state, and thereupon the persons who have subscribed, and all persons who shall from time to time become stockholders in such company, shall be a body corporate, by the name specified in such articles. Commissioners.

Articles to be filed.

Sec. 2. Such articles of association shall not be filed in the office of the secretary of state until ten per cent. on the amount of the stock subscribed thereto shall have been actually and in good faith paid, in cash, to the directors named in such articles, nor until there is endorsed thereon, or annexed thereto, an affidavit made by at least three of the directors named in such articles, that the amount of stock required by the first section has been subscribed, and that ten per cent. on the amount has actually been paid in.

Articles to be evidence.

Sec. 3. A copy of any articles of association filed in pursuance of this act, with a copy of the affidavit aforesaid endorsed thereon, or annexed thereto, and certified to be a copy by the secretary of this state, or his deputy, shall, in all courts and places, be presumptive evidence of the incorporation of such company, and of the facts therein stated.

Certificate, its effects.

Sec. 4. When the certificate shall have been filed as aforesaid, the persons who shall have signed and acknowledged the same, and their successors, shall be a body politic and corporate, by the name stated in such certificate, and shall be capable of suing and being sued, and may have a common seal, and may make and alter the same at pleasure, and be capable in law of purchasing, holding and conveying any real estate and personal property whatever, necessary for the construction of such road

and for the erection of all necessary buildings, yards and appurtenances for the use of the same.

Books to be opened.

SEC. 5. The commissioners for opening books of subscription, named in the act of incorporation, shall from time to time, after the company shall be incorporated, open books of subscription to the capital stock of the company, in such places, and after giving such notice as a majority of them shall direct; which books of subscription shall be kept open until all the capital stock shall be subscribed, if the corporation shall so long exist; and in case a greater amount of stock shall be subscribed than the whole capital of said company, the commissioners shall distribute such capital stock as equally as possible among the subscribers; but no share thereof shall be divided in making such distribution, nor shall a greater number of shares be allotted to any subscriber than such subscriber shall have subscribed for.

Directors to be chosen.

SEC. 6. As soon as practicable after such capital stock shall have been subscribed and distributed as aforesaid, the commissioners to receive subscriptions thereto shall appoint a time and place for the meeting of the stockholders to choose directors; such meeting to be held in one of the counties in or through which such rail-road is proposed to be constructed, and notice thereof shall be given by said commissioners, by public notice, to be published not less than twenty days previous thereto, in the state paper, and a newspaper published in each county through which the said road shall be intended to run, in which a newspaper shall be published.

Qualification of voters.

Thirteen directors shall be chosen at such meeting, by ballot, and by a majority of the votes of the stockholders being present in person or by proxy, and every such stockholder being so present at such election, or at any subsequent election of directors, shall be entitled to give one vote for every share of stock which he shall have owned for thirty days next preceding such election; but no stockholder shall vote at any such election upon any stock, except such as he shall have owned for such thirty

days. No person shall be a director unless he shall be a stockholder, owning stock absolutely and in his own right, and qualified to vote for directors at the election at which he shall be chosen; and at least seven of the directors shall, at the time of their election, be residents of the counties in or through which the route of such rail-road shall run. The directors shall be directors for one year, or until others are elected in their places.

Duty of commissioners.

SEC. 7. The commissioners named in the last preceding section shall be inspectors of the first election of directors, shall openly count the votes and declare the result, and shall, within ten days thereafter, file a certificate thereof, subscribed by them, or a majority of them, in the office of the secretary of state, and in the office of the clerk of each county, or with the clerk of the county commissioners' court (as the case may be) of each county in or through which such rail-road shall be proposed to be constructed, and shall also deliver to the treasurer of such company all moneys [received] by such commissioners on subscriptions to such capital stock, and all books and papers in their possession relative to such subscriptions. All subsequent elections shall be held at such time and place in one of these counties through which such rail-road shall pass, as shall be directed by the by-laws of the company.

Meetings of stockholders.

SEC. 8. A general meeting of the stockholders of any corporation formed under this act shall be holden annually, at the time and place appointed for the election of directors, and a meeting may be called at any time during the interval between such annual meetings, by the directors, or by the stockholders owning not less than one-fourth of the stock, by giving thirty days' public notice of the time and place of the meeting, in the state paper, and a newspaper published in each county through which the said road shall be run, or be intended to be run, in which a newspaper shall be published; and when any such meeting is called by the stockholders, the particular object of such shall be stated; and if at any such

Notice.

meeting thus called, a majority in value of the stockholders are not represented in person or by proxy, such meeting shall be adjourned from day to day, not exceeding three days, without transacting any business, and if within said three days stockholders having a majority of the stock do not attend such meeting, then the said meeting shall be dissolved.

Duty of president and directors.

Statements.

Rate of interest.

Proviso.

SEC. 9. At the regular annual meeting of the stockholders of any corporation, it shall be the duty of the president and directors in office for the preceding year to exhibit a clear and distinct statement of the affairs of the said company; and at any meeting of the stockholders, a majority of those present, in person or by proxy, may require similar statements from the directors, whose duty it shall be to furnish them when thus required; and at all general meetings of the stockholders, a majority in value of the stockholders in said company may fix the rate of interest which shall be paid by the company for loans for the construction of said road and its appendages, may remove any president or any directors of said company, and elect others in their stead: *Provided*, Notice of such intended removal has been given, as required by the last preceding section.

Failure of election.

President.

SEC. 10. In case it shall happen at any time that an election of directors shall not be made on the day designated by the by-laws of the company, when it ought to have been made, the company, for that reason, shall not be dissolved, if within ninety days thereafter they shall hold an election for directors, in such manner as shall be provided by the by-laws of the company. There shall be a president of the company, who shall be chosen by and from the directors, and also such subordinate officers as the company, by its by-laws, may designate, who may be elected or appointed, and required to give such security for the faithful performance of the duties of their office, as the company, by its by-laws, may require.

SEC. 11. It shall be lawful for the directors, to call in and demand from the stockholders respectively all sums

of money by them subscribed, at such time and in such payments or instalments as the directors shall deem proper, under the penalty of forfeiting the shares of stock subscribed for, and all previous payments made thereon, if payments shall not be made by the stockholders within sixty days after personal demand, or notice requiring such payment shall have been made in each county through which said road shall be laid out, in which a newspaper shall be published.

Payments of subscriptions.

Forfeiture.

Sec. 12. The directors of such company shall have power to make by-laws for the management and disposition of stock, property and business affairs of such company, not inconsistent with the laws of this state, and prescribing the duties of officers, artificers and servants that may be employed, for the appointment of all officers for carrying on all the business within the object and purposes of such company.

By-laws.

Sec. 13. The stock of such company shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of the company, but no shares shall be transferable till all previous calls thereon shall have been fully paid in, or the said shares shall have been forfeited for the non-payment of calls thereon; and it shall not be lawful for such company to use any of their funds in the purchase of any stock in their own or in any other corporation.

Stock deemed personal estate.

Sec. 14. All the stockholders of any such company that shall be hereafter incorporated under this act shall be severally individually liable to the creditors of such company, to an amount equal to the amount of stock held by them respectively, for all debts and contracts made by such company, until the whole amount of capital stock fixed and limited by the company in the manner aforesaid shall have been paid in, and a certificate thereof shall have been made and recorded, as prescribed in the following section; and shall be jointly and severally liable for all debts that may be due and owing to all

Stockholders responsible until, &c.

their laborers, servants and apprentices, for services performed for such corporation, but not to be liable to an action therefor before an execution shall be returned unsatisfied, in whole or in part, against the corporation, and then the amount due on said execution shall be the amount recoverable, with costs against said stockholders.

Certificates of payments.

SEC. 15. The president and a majority of the directors, within thirty days after the payment of the last instalment of the capital stock, so fixed and limited by the company, shall make a certificate, stating the amount of the capital stock so fixed and paid in; which certificate shall be signed by the president and a majority of the directors, and sworn to by the president and secretary, and they shall, within the said thirty days, file and record the same in the office of the secretary of state.

Liability of directors in case, &c.

SEC. 16. If the directors of any such company shall declare and pay any dividend when the company is insolvent, or any dividend, the payment of which would render it insolvent, they shall be jointly and severally liable for all the debts of the company then existing, and for all that shall thereafter be contracted, so long as they shall respectively remain in office: *Provided*, That if any of the directors shall be absent at the time of making the dividend, or shall object thereto, and shall, within thirty days thereafter, or after their return, if absent, file a certificate of their absence or objection with the clerk of the company, and with the clerk of the county, or with the clerk of the county commissioners' court, in which the principal office of said company is located, they shall be exempt from the said liability.

Officers liable in case, &c.

SEC. 17. If any certificate or report made or public notice given by the officers of any such company, in persuance to the provisions of this act, shall be false in any material representation, all the officers who shall have signed the same shall be jointly and severally liable for all the debts of the company contracted while they are stockholders or officers thereof.

Persons exempt.

SEC. 18. No person holding stock in any such company,

as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholders of such company; but the person pledging the stock shall be considered as holding the same, and shall be liable as a stockholder accordingly, and the estates and funds in the hands of such executor, administrator, guardian or trustee shall be liable in like manner, and to the same extent as the testator or intestate, or the ward or persons interested in such trust fund would have been if he had been living and competent to act, and held the same stock in his own name.

Stock represented.

SEC. 19. Every such administrator, executor, guardian or trustee, shall represent the shares of stock in his hands at all meetings of the company, and may vote accordingly as a stockholder.

Map and profile made.

SEC. 20. Every such company, before proceeding to construct a part of their road into or through any county named in their certificate of association, shall make a map and profile of the route intended to be adopted by such company; which shall be certified by a majority of the directors and filed in the office of the county clerk of such county, or with the clerk of the county commissioners' court of such county, for the inspection and examination of all parties interested therein.

And filed.

General and special powers.

SEC. 21. Every such corporation shall possess the general powers, and be subject to the general liabilities and restrictions expressed in the special powers following, that is to say:

Surveys.

1. To cause such examination and surveys for the proposed rail-road to be made as may be necessary to the selection of the most advantageous route for the rail-road, and for such purpose, by their officers, agents and servants, to enter upon lands or waters of any person, but subject to responsibility for all damages which they shall do thereto.

Take grants, &c.

2. To receive, hold and take such voluntary grants and donations of real estate and other property as shall be

made to it, to aid in the construction, maintenance and accommodation of such rail-road; but the real estate thus received by voluntary grants shall be held and used for the purposes of such grants only.

Purchase lands.

3. To purchase, and by voluntary grants and donations receive and take, and by its officers, engineers and surveyors and agents, enter upon and take possession of and hold, and use all such lands and real estate and other property as may be necessary for the construction and maintenance of its rail-road and stations, depots and other accommodations necessary to accomplish the object for which the corporation is created: but not until the compensation to be made therefor as agreed upon by the parties, or ascertained as hereinafter prescribed, be paid to the owner or owners thereof, or deposited as hereinafter directed, unless the consent of such owner be given to enter into possession.

Lay road six rods.

4. To lay out its road, not exceeding six rods wide, and to construct the same, and for the purposes of cuttings, embankments and procuring stone and gravel, may take

Additional lands, &c., in case.

as much more land within the limits of its charter, in the manner provided hereinafter, as may be necessary for the proper construction and security of the road.

Water-courses, roads, &c.

5. To construct their road upon or across any stream of water, water-course, road, highway, rail-road or canal, which the route of its road shall intersect; but the corporation shall restore the stream or water-course, road or highway thus intersected, to its former state, or in a sufficient manner not to have impaired its usefulness.

Intersect rail-road.

6. To cross, intersect, join and unite its rail-road with any other rail-road before constructed, at any point on its route, and upon the grounds of such other rail-road com-

With turn-outs.

pany, with the necessary turn-outs, sidings, and switches, and other conveniences, in furtherance of the object of its connections; and every company whose rail-road is or shall be hereafter intersected by any new rail-road, shall unite with the owners of such new rail-road in forming such intersections and connections, and grant the

facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor, or the points or manner of such crossings and connections, the same shall be ascertained and determined by commissioners to be appointed by the court, as is provided hereinafter in respect to the taking of lands. Compensation. By commissioners.

7. To purchase lands or take them, may change the line of its road whenever a majority of the directors shall so determine, as is hereinafter provided, but no such change shall vary the original route of such road to exceed one mile laterally. Change line.

8. To take, transport, carry and convey persons and property on their rail-road, by the force and power of steam, of animals, or any mechanical powers, or by any combinations of them, and receive tolls or compensation therefor. Transport persons, &c.

9. To erect and maintain all necessary and convenient buildings, stations, depots and fixtures and machinery, for the accommodation and use of their passengers, freight and business, and obtain and hold the lands necessary therefor. Buildings and stations.

10. To regulate the time and manner in which passengers and property shall be transported, and the tolls and compensation to be paid therefor; but such compensation for any passenger and his ordinary baggage shall not exceed three cents a mile, unless by special act of the legislature, and shall be subject to alteration as hereinafter provided. Time of trains. Fares. Passengers not exceed three cents.

11. To borrow money, to be applied to the construction of their rail-road and fixtures, and purchase of engines and cars, at such rates of interest as is hereinafter provided. Borrow money.

Sec. 22. Any number of persons, not less than thirteen, intending to organize a corporation under the provisions of this act, and every company that may hereafter organize under this act, may present a petition to the legislature, stating the place from and to which they propose to construct their road, and its location and route, To petition legislature. Contents of.

with reasonable certainty, and that they intend to run the said road on the most direct and eligible route between the points of terminus, and praying the legislature to determine whether the construction of the said proposed road will be of sufficient public use to justify the taking of private property for the construction of the same. And if the legislature shall determine and decide by law that such proposed road will be of sufficient public utility to justify the taking of private property for constructing and maintaining said road, under the provisions of this act, then such company, when organized, may enter upon, take possession of and use all such lands, real estate, as may be required for the construction and maintenance of their rail-road, and the convenient accommodations appertaining to the same; making compensation in the manner hereinafter provided, for all lands, real estate, thus taken possession of and used, except such as may be voluntarily given to or purchased at an agreed price by the said corporation. Whenever the said corporation shall not have acquired by gift or purchase any land, real estate, so required as aforesaid, or which may be affected by any operation connected by such construction and maintenance, the said corporation may present to the circuit court of the district where said lands or real estate shall lie, a petition signed by its attorney or agent, describing with convenient accuracy and certainty, by map or otherwise, the lands or real estate so required to be taken or affected as aforesaid, setting forth the name and residence of each owner or other person so interested therein as owner, lessee, incumbrancer, as far as known to such attorney or agent, or appearing of record, and praying the appointment of commissioners to ascertain the compensation to be made to such owners and persons interested, for the taking or injuriously affecting such land or real estate aforesaid. The court shall have satisfactory evidence that notice of an intended application, and the time and place thereof, for the appointment of commissioners of appraisement

Legislature declare utility.

Take lands.

Compensation.

Petition court.

Contents of.

Notice of ditto.

between said corporation and the owners and persons interested in such lands and real estate, had been given at least ten days previously, to such owners, personally, or to some person of suitable age, at their residence or on the premises, or by publication thereof in a newspaper printed in the county in which such lands or real estate may lie. Such publication to be allowed only in respect to owners who shall appear by affidavit to have no residence in the county known to such agent or attorney, whereat such notice could be delivered as aforesaid. The court may adjourn the proceedings from time to time; shall direct any future notice thereof to be given that may seem proper; shall have proofs and allegations of all parties interested, touching the regularity of the proceedings; and shall, by an entry in its minutes, appoint five competent and disinterested persons commissioners to ascertain such compensation as aforesaid, specifying in such entry a time and place for the first meeting of such commissioners. The said commissioners, before entering upon the duties of their office, shall take the oath required by the laws and constitution of this state, and any one of them may administer oaths to witnesses produced before them, and may adjourn, and may hold meetings for that purpose. Whenever they shall meet to hear proofs and allegations, unless by appointment of the court, or pursuant to adjournment, they shall cause reasonable previous notice of such meetings to be given to the said owners or parties interested, or their attorney or agent, and may each of them issue subpœnas and compel witnesses to appear and testify; they shall hear the proofs and allegations of the parties, and any three or more of them, after reviewing the premises, without fear or favor, or partiality, ascertain and certify the compensation proper to be made to the said owners and parties interested, for the lands or real estate to be taken, as well as all damages accruing to the owner of the lands and real estate aforesaid, taken in consequence of the condemnation of the same, or injuriously affected

May adjourn proceedings.

Proofs.

Appoint commissioners.

Oath.

Commissioners give notice.

Summon witnesses.

Hearing.

View.

Certify damages.

Deduct benefits. as aforesaid, making such deduction or allowance for real benefit or advantages which such owners or parties interested may derive from the construction of said road,

May assess costs. and may in their discretion assess a separate reasonable sum in favor of such owners and parties interested, or of any person appointed by the court to appear as attorney for them, for costs, expenses and reasonable counsel fees. They, or a majority of them, shall make, subscribe and file with the clerk of the county, or with the clerk of the county commissioners' court, in which such lands or real

Return certificate of appraisement. estate shall lie, a certificate of their said ascertainment and assessment, in which such lands or real estate shall be described by map or otherwise, with convenient accuracy and certainty. The court, upon such certificate, and due proof that such compensation and separate sums, if any be certified, have been paid to the parties entitled to the same, or have been deposited to the credit of such parties in the state treasury, or other place for that purpose approved by the court, shall make and cause to be

Entry in court. entered in its minutes a rule describing such lands or real estate, in manner aforesaid, such ascertainment of compensation, with the mode of making it, and such payment or deposit of the same compensation as aforesaid; a certificate copy of which rule shall be recorded and indexed in the proper recorder's office, in like manner and in like effect as if it were a deed of conveyance from the said owners and parties interested to the said corpo-

Corporation seised in fee. ration. Upon the entry of such rule, the said corporation shall become seised in fee of all the lands and real estate described in said rule, as required to be taken as aforesaid during the continuance of the corporation, by this or any subsequent act, and may take possession of and hold and use the same for the purposes of said road, and shall thereupon be discharged from all claim for any damages by reason of any matter specified in said peti-

If title fail, proceed anew. tion, certificate or rule of said court. If at any time after an attempted or actual ascertainment of compensation under this or any other act, or any purchase by or dona-

tion to, said corporation, of any lands, for the purposes aforesaid, it shall appear that the title acquired thereby to all or any part of such lands, for the use of said road, or if said corporation shall fail, or be deemed defective, the said corporation may proceed anew to perfect such title, by procuring an ascertainment of the compensation proper to be made to any person or persons whose title, claim or interest in or lien upon such lands, and by making payment thereof in the manner hereinafter provided, as near as may be; and at any stage of such new proceedings, or of any proceedings under this act, the court may, by a rule in that behalf made, authorize the said corporation, if already in possession, and if not in possession, to take possession of and use such premises during the pendency and until the final conclusion of such proceedings, and may stay all actions and proceedings against such corporation on account thereof: *Provided*, Such corporation shall pay a sufficient sum into court, or give approved security to pay the compensation in that behalf, when ascertained; and in every case where possession shall be so authorized, it shall be lawful for the owners to conduct the proceedings to a conclusion, if the same shall be delayed by the company. The said commissioners shall be entitled to receive from said corporation a compensation not exceeding two dollars for each day actually employed by them in the discharge of their duties—such compensation to be taxed and allowed by the court. If any commissioner so appointed shall die, be unable or fail to serve, the court may appoint another in his place, on reasonable notice of the application, to be approved by the court. The proceedings hereby authorized may be had in the circuit court, in a county where the lands lie, and all motions to the circuit court shall be made at a general or special term thereof in said county. The said commissioners shall file the said certificate in the county where the lands to be affected may lie, or in any adjacent county; and any clerk may transfer the same, and the proceedings connected therewith, to the

May take possession, if give security.

Or pay into court.

Fees of commissioners.

Fill vacancies.

County where lands lie.

clerk of the county in which the lands to be affected may lie, or of any county adjacent thereto, whenever said commissioner or clerk shall be so required by said corporation, its agent or attorney. And the legislature hereby reserves [the right] to itself to indicate the routes and termini of said roads, and the same shall not be constructed or commenced without the express sanction of the legislature of this state, by a law to be passed hereafter.

Legislature indicate route and termini.

Sanction requisite.

Infants, idiots, &c., or unknown owner.

SEC. 23. In case an infant, idiot or insane person, or any unknown owner or owners not personally notified to appear, and who shall not appear, after such notice, on the appointment of commissioners, shall be interested in any such lands, real estate and property, the court shall appoint some proper person to appear before the said commissioners and act as attorney for and in behalf of such infant, idiot, insane person, unknown owner or non-appearing owner, not personally served with notice.

Line may be altered.

SEC. 24. If at any time after the location of the track of said road, in whole or in part, and the filing of the map thereof, it shall appear to the directors of said company that the line in some parts thereof may be improved, it shall be lawful for the said directors, from time to time, to alter the line and cause a new map to be filed in the office, where the map showing the first location is or shall be filed, and may thereupon proceed to take possession of the lands embraced in such new location that may be required for the construction and maintenance of said road on such new line, and the convenient accommodations appertaining to the same, either by agreement with the owner or owners, or by such proceedings, as near as may be, as are authorized under the preceding section of this act, and use the same in place of the line for which the new is substituted. Nothing in this act contained shall authorize the said company to make a location of their track within any city without the consent of the common council of said city.

New map filed.

Possession.

No location in a city without consent.

Highways, how crossed, under or over.

Sec. 25. Whenever the track of said rail-road shall cross a road or highway, such road or highway may be carried under or over the track, as may be found most expedient; and in cases where an embankment or cutting shall make a change in the line of such road or highway desirable, with a view to a more easy ascent or descent, the said company may take such additional lands for the construction of such roads or highway, or such new line as may be deemed requisite by said directors. Unless the lands so taken shall be purchased or voluntarily given for the purposes aforesaid, compensation therefor shall be ascertained in the manner in this act provided, as nearly as may be, and duly made by said corporation to the owners and persons interested in such lands, the same when so taken or compensation made to become part of such intersecting road or highway, in such manner and by such tenure as the adjacent parts of the same highway may be held for highway purposes.

Change highway.

Compensation for do.

Lands may be granted by state, county or town.

Sec. 26. If any such corporation shall, for its purpose aforesaid, require any land belonging to the people of this state, or to any of the counties or towns, the general assembly of the state and the county and town officers respectively, having charge of said lands, may grant such lands to such corporations for a compensation, which shall be agreed upon between them; and if they shall not agree upon a sale and price, the same may be taken by the corporation as is before provided in respect to other cases.

Appraised, if not agreed

Officers to wear badge.

Sec. 27. Every conductor, baggage-master, engineer, brakeman or other servant of any such rail-road corporation employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and the initial letters of the style of the corporation by which he is employed. No conductor or collector without such badge shall demand or be entitled to receive from any passenger any fare, toll or ticket, or exercise any of the powers of his office; and no other of said officers or servants, without such badge,

shall have any authority to meddle or interfere with any passenger, his baggage or property.

Annual report. Oath. Contents.

SEC. 28. Every such corporation shall make an annual report to the secretary of this state, of the operations of the year ending on the first day of January; which report shall be verified by the oaths of the treasurer and the acting superintendent of operations, and filed in his office by the twentieth day of January in each year, and shall state—1st. The capital stock and the amount actually paid in. 2d. The amount expended for the purchase of lands for the construction of the road, for buildings and for engines and cars respectively. 3d. The amount and nature of its indebtedness, and the amounts due the corporation. 4th. The amount received for the transportation of passengers, of property, of the mails and from other sources. 5th. The amount of freight, specifying the quantity in tons, of the products of the forests, of animals, of vegetable food, other agricultural products, manufactures, merchandise and other articles. 6th. The amount paid for repairs, engines, cars, buildings and salaries. 7th. The number and amount of dividends, and when paid. 8th. The number of engine-houses and shops, of engines and cars, and their character. 9th. The number of miles run by passenger, freight and other trains, respectively. 10th. The number of men employed and their occupation. 11th. The number of persons injured in life or limb, and the cause of such injury. 12th. Whether any accidents have arisen from carelessness or negligence of any person in the employment of the corporation, and whether such person is retained in the service of the corporation.

Penalty for neglect.

SEC. 29. Any such corporation which shall neglect to make such report shall be liable to a penalty of two hundred and fifty dollars, to be sued for in the name of the people of this state.

Property to be listed.

SEC. 30. The property belonging to any company organized under the provisions of this act shall be listed by the resident secretary or other proper officer, with the

auditor of the state, which shall be subject to the same rate of taxation as other similar property of individuals; and the revenue arising therefrom shall be paid into the state treasury, until the entire extinction of the internal improvement debt of the state, after which the said property shall be subject to taxation, and the revenue arising therefrom paid as in case of all other property in the state. The revenue derived under this section to be applied to the payment of the public debt of the state. Taxation.

Sec. 31. The state shall have a lien upon all rail-roads of said corporations, and their appurtenances and stock therein, for all penalties, taxes and dues which may accrue to the state from said corporations; which lien of the state shall take precedence of all demands, judgments or decrees against said corporations; and the citizens of this state shall have a lien upon all the personal property of said corporation to the amount of one hundred dollars, originally contracted within this state, which, after said lien of the state, shall take precedence of all other debts, demands, judgments or decrees, liens or mortgages against said corporation. Liens of state. And of citizens.

Sec. 32. The legislature may, when any such rail-road shall be opened for use, from time to time alter or reduce the rates of toll, fare, freight or other profits upon such road; but the same shall not, without the consent of the corporation, be so reduced as to produce, with said profits, less than fifteen per cent. per annum on the capital actually paid in; nor unless on an examination of the amounts received and expended, to be made by the secretary of state, he shall ascertain that the net income, divided by the company from all sources for the year then last past shall have exceeded an annual income of fifteen per cent. upon the capital of the corporation actually paid in. Tolls may be altered by legislature. Not if income under fifteen per cent.

Sec. 33. Any such corporation shall, when applied to by the postmaster-general, convey the mails of the United States on their road or roads respectively; and in case such corporation shall not agree as to rates of transportation thereof, and as to time, rate of speed, manner and To carry mails.

condition of carrying the same, it shall be lawful for the governor of this state to appoint three commissioners, who, or a majority of them, after fifteen days' notice in writing of the time and place of meeting to the corporation, shall determine and fix the prices, times and conditions aforesaid, but such prices shall not be less for carrying said mails in the regular passenger trains than the amount which said corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car. And in case the postmaster-general shall require the mail to be carried at other hours and at a higher speed than the passenger trains be run at, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses and wear and tear thereof, and for the services to be fixed aforesaid.

Governor appoint commissioners.

Fix prices, &c. for mails.

Penalty on refusal to pay fare.

SEC. 34. If any passenger shall refuse to pay his fare or toll, it shall be lawful for the conductor of the train and the servants of the corporation to put him out of the cars at any usual stopping place the conductor shall select.

Regular times shall be fixed.

SEC. 35. Every such corporation shall start and run their cars for the transportation of passengers and property, at regular times, to be fixed by public notice, and shall furnish sufficient accommodations for the transportation of all such passengers and property as shall, within a reasonable time previous thereto, offer or be offered for transportation at the place of starting, and the junctions of other rail-roads, and at siding and stopping places established for receiving and discharging way passengers and freight, and shall take, transport and discharge such passengers and property at, from and to such places, on the due payment of tolls, freight or fare, legally authorized therefor.

Accommodations furnished.

Penalty for neglect.

SEC. 36. In case of the refusal by such corporation or their agents, so to take and transport any passengers or property, or to deliver the same, or either of them, at the regular or appointed time, such corporation shall pay to

the party aggrieved all damages which shall be sustained thereby, with costs of suit.

Trains, how placed.

SEC. 37. In forming a passenger train, baggage or freight, or merchandise or lumber cars, shall not be placed in the rear of passenger cars; and if they or any of them shall be so placed, and any accident shall happen to life or limb, the officer or agent who so directed, or knowingly suffered such arrangement, and the conductor or engineer of the train, shall each and all be held guilty of intentionally causing the injury, and be punished accordingly.

Bell and whistle to be kept and rung, &c.

SEC. 38. A bell of at least thirty pounds weight, or a steam whistle, shall be placed on each locomotive engine, and shall be rung or whistled at the distance of at least eighty rods from the place where the said road shall cross any other road or street, and be kept ringing or whistling until it shall have crossed said road or street, under a penalty of fifty dollars for every neglect, to be paid by the corporation owning the rail-road, one-half thereof to go to the informer and the other half to the state, and also be liable for all damages which shall be sustained by any person by reason of such neglect.

Boards to be kept up.

SEC. 39. Every such corporation shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained across each public road or street, where the same is crossed by the rail-road. On the same level said boards shall be elevated, so as not to obstruct the travel, and to be easily seen by travellers; and on each side of said boards shall be painted in capital letters, of at least the size of nine inches each, the words "Rail-road crossing—look out for the cars while the bell rings, or the whistle sounds." But this section shall not apply to streets in cities or villages, unless the corporation be required to put up such boards by the officers having charge of such streets.

Intoxication of engineman or conductor.

SEC. 40. If any person shall, while in charge of a locomotive engine running upon the rail-road of any such corporation, or while acting as the conductor of any car

or train of cars on any such rail-road, be intoxicated, he shall be deemed guilty of a misdemeanor.

Penalty for injury to company.

SEC. 41. If any person shall wilfully do, or cause to be done, any act or acts whatever, whereby any building, construction or work of any such corporation, or any engines, machines or structures, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured or destroyed, the person or persons offending shall be guilty of a misdemeanor, and shall forfeit and pay to the said corporation treble the amount of damages sustained by means of such offence.

Penalties, how recovered.

SEC. 42. All penalties imposed by this act may be sued for by the district attorney, and in the name of the people of the state of Illinois; and if such penalty be for a sum not exceeding one hundred dollars, then each suit may be brought before a justice of the peace.

Corporation to make and file map of lands.

SEC. 43. Every such corporation shall, within reasonable time after their road shall be located, cause to be made—

1st. A map and profile thereof, and of the land taken and obtained for the use thereof, and file the same in the office of the secretary of state; and also like maps of the parts thereof located in different counties, and file the same in the office for recording deeds in the county in which said parts of said road shall lie, there to remain as of record forever.

Certificate of line, grades, &c.

2d. A certificate, specifying the line upon which it is proposed to construct the rail-road and the grades and curves.

Incorporation void in case, &c.

SEC. 44. If any such corporation shall not, within five years after its incorporation, begin the construction of its road, and expend thereon ten per cent. on the amount of its capital, and finish the road and put it in full operation in ten years thereafter, its act of incorporation shall become void.

Existing corporations subject to this act.

SEC. 45. All existing rail-road corporations within this state shall respectively have and possess all the powers and privileges, and be subject to all the duties and liabili-

ties and provisions contained in this act, so far as they shall be applicable to their present conditions, and not inconsistent with their several charters; and all rail-road companies that are now constructing their roads may acquire title to lands necessary for that purpose under the provisions of this act.

SEC. 46. This act shall take effect and be in force from and after its passage.

Approved November 5, 1849.

AN ACT

SUPPLEMENTAL TO AN ACT ENTITLED "AN ACT TO PROVIDE FOR A GENERAL SYSTEM OF RAIL-ROAD INCORPORATIONS."

SEC. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly*, That whenever the citizens of any city or county in this state are desirous that said city or county should subscribe for stock in any rail-road company already organized or incorporated, or hereafter to be organized or incorporated under any law of this state, such city or county may, and are hereby authorized to purchase or subscribe for shares of the capital stock in any such company, in any sum not exceeding one hundred thousand dollars for each of said cities or counties; and the stock so subscribed for or purchased shall be under the control of the county court of the county, or common council of the city making such subscription or purchase, in all respects as stock owned by individuals.

Stock may be subscribed by city or county.

SEC. 2. That for the payment of said stock, the judges of the county court of the county, or the common council of the city, making such subscription or purchase, are hereby authorized to borrow money at a rate not exceeding ten per cent. per annum, and to pledge the faith of the county or city for the annual payment of the interest, and the ultimate redemption of the principal; or

City or county may borrow money and issue bonds.

if the said judges or common council shall deem it most advisable, they are hereby authorized to pay for such subscription or purchase in bonds of the city or county making such subscription, to be drawn for that purpose, in sums not less than fifty dollars, bearing interest not exceeding ten per cent. per annum: *Provided*, That no bond shall be paid out at a rate less than par value.

Bonds receivable; company issue bonds.

SEC. 3. The rail-road companies already organized or incorporated, or hereafter to be organized or incorporated under the laws of this state, are hereby authorized to receive the bonds of any county or city becoming subscribers to the capital stock of such company, at par, and in lieu of cash, and to issue their bonds bearing interest not exceeding ten per centum per annum for any moneys by them borrowed for the construction of their rail-road and fixtures, or for the purchase of engine or cars, and for such purpose may dispose of any bonds by them received as aforesaid.

Vote to be taken, and how done.

SEC. 4. No subscription shall be made or purchase or bond issued, by any county or city under the provisions of this act, whereby any debt shall be created by said judges of the county court of any county, or by the common council of any city, to pay any such subscription, unless a majority of the qualified voters of such county or city (taking as a standard the number of votes thrown at the last general election previous to the vote had upon the question of subscription under this act for county officers) shall vote for the same; and the judges of the county court of any county, or the common council of any city, desiring to take stock as aforesaid, shall give at least thirty days' notice, in the same manner as notices are given for election of state and county officers in said counties, requiring said electors of said counties or said cities to vote upon the day named in such notices, at their usual place of voting, for or against the subscription for said capital stock, which they may propose to make, and said notices shall specify the company in which stock is proposed to be subscribed, the amount which it is pro-

posed to take, and the time which the bonds proposed to be issued are to run, and the interest which said bonds are to bear; or in case it is proposed to borrow money to pay such subscription, then the notices shall state the terms upon which such loan is to be effected; and the opinion of the electors shall be expressed upon their ballots "for subscription" or "against subscription," and counted and returned by the judges and clerks of elections as in other cases; and if a majority of the voters of said county or city, assuming the standard aforesaid, shall be in favor of the same, such authorized subscription or purchase, or any part thereof, shall then be made by said judges or common council. In case any election had under this act is held upon a day of a general election, then the number of votes thrown at such general election for county officers shall be the standard of the number of qualified voters as aforesaid. No bonds shall be issued under the provisions of this act by any county or city, excepting for the amounts required to be paid at the time of subscription, and for the amounts of and at the time when assessments upon all the stockholders of said company shall be regularly assessed and made payable.

SEC. 5. This act shall take effect from and after its passage.

Approved November 6, 1849.

AN ACT

TO AUTHORIZE THE CONSTRUCTION AND USE OF THE NORTHERN INDIANA AND CHICAGO RAIL-ROAD.

SEC. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly*, That the Northern Indiana and Chicago Rail-Road Company be, and they are hereby authorized to maintain and use or construct and build a rail-road at and from the city of

Chicago, in the county of Cook, in a southerly and south-easterly direction, through the southerly portion of said county of Cook, to a point where the state line shall be intersected by the road of the western division of the Buffalo and Mississippi Rail-Road Company, on the most direct and eligible route; and the road above mentioned is hereby declared to be of sufficient public utility to justify the taking of private property for constructing and maintaining the same; and the acts done by said company are hereby legalized, and the said Northern Indiana and Chicago Rail-Road Company is authorized to make such contracts and agreements for the transportation of freight and passengers, and the construction and maintenance or use of its said road with any road of which it may be an extension, as to the board of directors may seem proper.

Approved June 16, 1852.

AN ACT

TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR A GENERAL SYSTEM OF RAIL-ROAD INCORPORATIONS."

SEC. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly*, That all rail-road companies incorporated, or which may be hereafter incorporated, under the authority of the state, the lines or routes of which rail-roads may connect with or cross each other, shall have power to make contracts or arrangements with each other, for the use of each other's engines, machinery or cars, as also for the mutual transportation of material, merchandise and passengers upon and along the lines of each other's roads, upon such terms as may be mutually agreed upon between any such corporations.

Approved February 12, 1853.

AN ACT

TO ENABLE RAIL-ROAD COMPANIES AND PLANK-ROAD COMPANIES TO CONSOLIDATE THEIR STOCK.

Powers to consolidate property and stock.

SEC. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly*, That all rail-road companies and plank-road companies now organized, or hereafter to be organized, which now have or hereafter may have their termini fixed by law, whenever their said road or roads intersect by continuous lines, be, and the same are hereby authorized and empowered to consolidate their property and stock with each other, and to consolidate with companies out of this state, whenever their lines connect with the lines of such companies out of this state.

When the consolidation shall take place.

Corporate name of the consolidated company.

Powers of the consolidated company.

SEC. 2. Such consolidation may take place whenever the said companies shall respectively agree upon the terms and conditions of the same; and the said companies, when so consolidated, shall be authorized to agree upon the name or names of such consolidated company, and by such name or names the said consolidated company shall be a body corporate and politic, shall have a common seal or seals, and by such name or names shall be respectively contracted with, and make contracts, shall sue and be sued, implead and be impleaded with, and shall have all the powers, franchises and immunities which the said respective companies shall have, by virtue of the respective charters, before such consolidation, passed [possessed] within the state of Illinois: *Provided*, That each consolidated company shall file for record, in the office of the secretary of state, a copy of their said articles of consolidation, evidenced by the signature of the presiding officer of each of the said companies, and the corporate seal thereof.

Proviso.

Power to increase capital stock.

SEC. 3. The corporation or corporations formed by virtue of the provisions of this act, shall have power to increase their capital stock to any amount required by resolution of their respective boards of directors, not exceeding the amount of the cost of the roads and works constructed and equipped by them, to borrow money and fix the rate of interest therefor, to issue bonds, and the same to sell at such price as they may deem expedient, such sales being hereby authorized and confirmed, and to make any other contracts authorized by the by-laws of the said corporation or corporations, within the purview of their said charters.

Power to borrow money, to fix the rate of interest, to issue bonds and to sell the same.

Power to consolidate.

SEC. 4. Such corporation or corporations, when so formed, shall have the same power to consolidate with other companies when their lines connect, upon such terms as may be agreed upon by them respectively.

Termini to be fixed.

SEC. 5. No company in this state shall be authorized, under the provisions of this act, to consolidate with any company beyond the limits of the state, until the termini of such company in this state shall first have been fixed by the laws of this state, at the boundary line thereof.

Plank-roads not to consolidate with rail-roads.

SEC. 6. This act shall not be so construed as to authorize any plank-road, not having power to build a rail-road, to consolidate with any rail-road, so as to lay a rail-road upon any plank-road track, until the termini of such rail-road shall have been expressly fixed by law; nor shall any plank-road so consolidate with any rail-road, unless authorized by law to lay a rail-road track.

Consolidation not to take place without approval of a majority in interest of stockholders.

SEC. 7. All proceedings for the purpose of consolidation as above provided, shall be fixed and regulated by the by-laws of the respective companies desiring such consolidation: *Provided*, That such consolidation shall not take place until the terms of such consolidation shall have been approved by a majority of the stockholders in interest, in person or by proxy, at an annual or called meeting, of which due notice shall be given by publication or in writing, to all stockholders interested, or the same be approved by the written consent of a majority

of the stockholders in interest, filed in the office of their company.

Rail-road crossings.

SEC. 8. When it shall be necessary for the construction of any rail-road to cross the track of any other rail-road, stream of water, water-course, road or highway, which it may intersect or cross by reason of such extension into or through any adjoining state, or by reason of its consolidation with any other road or roads, company or companies, as provided in this act, it shall be lawful for said company to construct their road across or over the same, by such track or tracks, bridge or bridges, viaduct or viaducts, as may be necessary to the convenience of the extension or consolidation of said road: *Provided*, Said company shall restore the rail-road, stream of water, water-course, road or highway thus intersected or crossed, to its former state, or in a sufficient manner not materially to interfere with its usefulness.

Proviso.

SEC. 9. This act shall take effect from and after its passage.

Approved February 28, 1854.

AN ACT

TO FACILITATE THE CONSTRUCTION OF RAIL-ROADS.

Bonds of cities and counties, when to be delivered.

SEC. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly*, That any city or county in this state, which, under the provisions of an act, entitled "An act supplemental to an act entitled 'An act to provide for a general system of rail-road incorporations,'" approved November 5th, 1849, has heretofore subscribed, or may hereafter subscribe for stock in any rail-road company, payable in the bonds of said city or county, it shall be lawful for the city council of such city, or the judges of such county, and they are hereby authorized and empowered to issue and deliver

to such rail-road company the whole, or any portion of the bonds of such city or county, payable on such subscription, at any time hereafter when, in their opinion, the interests of such city or county will be promoted thereby, whether the assessments upon the stockholders of said company have been regularly assessed and made payable or not.

SEC. 2. That this act shall take effect and be in force from and after its passage.

Approved March 1, 1854.

AN ACT

FURTHER TO AMEND AN ACT REGULATING RAIL-ROAD COMPANIES, PASSED FEBRUARY 11, 1848, AND FOR OTHER PURPOSES.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, In case of any vacancy, by death, resignation or any other cause, in any board of directors of any rail-road company, plank-road company or turnpike-road company, incorporated by the general assembly of this state, if in the act or acts incorporating such company no provision is made for power to fill such vacancy, it shall be lawful for the remaining directors to appoint a director to fill such vacancy; and the person so appointed shall be a director of such company until the next succeeding stated election, and until his successor shall be elected and qualified.

Passed March 13, 1849.

AN ACT

AUTHORIZING RAIL-ROAD COMPANIES TO CHANGE THEIR GAUGE OR WIDTH OF TRACK IN CERTAIN CASES.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That each rail-road company now existing, or that may be hereafter formed in this state, shall be required to make every rail-road constructed or controlled by said company, of one uniform gauge or width of track from end to end. And whenever either of the roads aforesaid shall connect with or cross any other road or roads, the companies owning or controlling each or either of said roads may adopt such uniform gauge or width of track as will enable each of said companies to pass the same cars over each of said roads respectively.

Passed March 24, 1852.

AN ACT

RELATING TO THE SALE OF BONDS OF RAIL-ROAD COMPANIES, AND TO INCREASE THE NUMBER OF DIRECTORS.

Directors may sell the bonds, notes, &c., of the company.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the directors of any rail-road company, authorized to borrow money and to execute bonds or promissory notes therefor, shall be, and they are hereby authorized to sell, negotiate, mortgage or pledge such bonds or notes, as well as any notes, bonds, scrip or certificates, for the payment of money or property which such company may have heretofore received, or shall hereafter receive as donations, or in payment of subscriptions to the capital stock, or for other dues of such com-

pany, at such times and in such places, either within or without the state, and at such rates and for such prices as in the opinion of said directors will best advance the interests of such company; and if such notes or bonds are thus sold at a discount, such sale shall be as valid in every respect, and such securities as binding for the respective amounts thereof as if they were sold at their par value.

Sales at a discount valid.

Directors not to purchase stock, &c., at less than par value.

SEC. 2. No director of any rail-road company shall, either directly or indirectly, purchase any shares of the capital stock, or any of the bonds, notes or other securities of any rail-road company of which he may be a director, for less than the par value thereof; and all such stocks, bonds and notes, or other securities, that may be purchased by any such director for less than the par value thereof, shall be null and void.

Companies may increase the number of directors.

SEC. 3. That any rail-road company heretofore incorporated, or which may be hereafter incorporated, in this state, shall be and is hereby authorized, by a vote of a majority of the stock of such company, to increase the number of directors, provided for in the charter of such company, to any number not greater than thirteen; and the increased number of directors thus created shall have the same powers and perform the same duties as may be provided for in the charter of such company.

Passed December 15, 1852.

AN ACT

TO REGULATE RAIL-ROAD MORTGAGES.

Rail-road companies may execute mortgages.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That in all cases where any rail-road company organized, or hereafter to be organized, under any law of this state, or owning any real and personal estate therein, which has, by virtue of any special provisions in

its charter, of the act "regulating rail-roads," passed February 11, 1848, or of the act "to provide for the creation and regulation of incorporated companies in the state of Ohio," passed May 1, 1852, authority to borrow money, and to secure the payment thereof, to pledge the property and income of such company, every such company may execute a deed of mortgage, or other instrument in writing, for the purpose of securing the payment of the loan of money so made, or the notes, bonds or other evidences of indebtedness that may be so issued by said company therefor, which said mortgage may include the personal as well as the real property of said company.

Evidence of debt when recorded.

SEC. 2. That in all cases where a mortgage has been or may hereafter be executed upon any portion of the personal and real property of any rail-road company within this state, by the proper officers of the same, to secure the payment of any loans of money or advances of material or labor made to said company, it shall be held to be a sufficient record of the same to have the same recorded in the office of the recorder of deeds, in each of the counties in which said real or personal property may be situated or employed; and said mortgage, so recorded, shall be held to be a good and substantial lien from the date of the record of the same in each county where the same is recorded, as well upon the personal as the real property of said company.

Passed March 9, 1853.

AN ACT

AUTHORIZING RAIL-ROAD COMPANIES TO ISSUE BONDS AND INCREASE THEIR CAPITAL STOCK IN CERTAIN CASES.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That any rail-road company heretofore, or that may hereafter be incorporated under the laws of this

state, contemplating the laying of a double track, may issue its bonds, convertible or otherwise, bearing any rate of interest not exceeding seven per centum per annum, to an amount not exceeding half its capital stock, and sell the same at such times and at such places within or without this state, and at such rates as the directors of such company may deem best for its interests; and if such bonds are sold at a discount, they shall be as valid in every respect as if sold at their par value, and such company may secure such bonds by a mortgage on its property or otherwise, and may at its option increase its capital stock in an amount equal to the bonds issued as aforesaid.

Passed March 11, 1853.

ARTICLES OF CONSOLIDATION

AND AGREEMENT BETWEEN THE MICHIGAN SOUTHERN RAIL-ROAD COMPANY AND THE NORTHERN INDIANA RAIL-ROAD COMPANY, CONSTITUTING THE MICHIGAN SOUTHERN AND NORTHERN INDIANA RAIL-ROAD COMPANY.

Articles of consolidation and agreement, made and entered into the twenty-fifth day of April, one thousand eight hundred and fifty-five, by and between the Michigan Southern Rail-Road Company, of the first part, and the Northern Indiana Rail-Road Company, of the second part.

Whereas the said parties of the first part are a rail-road company, organized under and by virtue of the laws of the state of Michigan, by a charter and amendments thereto, authorizing the same to construct the rail-road and branches in the state of Michigan, in said charter and amendments mentioned:

And whereas the said parties of the second part are another rail-road company, organized under and by vir-

tue of the laws of the states of Indiana, Ohio and Illinois, authorizing the said parties of the second part to construct rail-roads, as mentioned in their acts of incorporation:

And whereas the said rail-road of the said parties of the first part, meets and intersects the rail-road of the said parties of the second part, at a point in the boundary line between the states of Michigan and Indiana, and forms therewith a continuous line of rail-roads, extending from the city of Chicago to the head of Lake Erie, at Monroe, and also making connection through Ohio, to Toledo, in the state of Ohio:

And whereas the said parties of the first and second parts have intersected, connected, joined and united their rail-roads by mutual agreement:

And whereas the charters of the said parties of the first and second parts authorize their said rail-roads to go to the said state line of the states of Indiana and Michigan, at the said point of intersection:

And whereas the said parties of the first and second parts have mutually agreed to consolidate their respective capitals with each other, and to merge and consolidate the stock of their respective companies, and make one joint-stock company of their two rail-roads, and to consolidate the property and stock of the said parties of the first and second part, and their respective companies, upon the terms and conditions hereinafter stated and declared;

And whereas the said parties of the first and second parts are duly authorized by law to consolidate in the manner hereinafter provided:

And whereas the terms of consolidation between the said parties of the first and second parts, hereinafter contained, have been fixed and regulated by the by-laws of the said respective companies, and these present articles are framed and executed in pursuance of such by-laws:

And whereas a majority in interest of the stockholders of each of the said corporations, parties of the first

and second parts, at meetings called for that purpose, have passed a vote to consolidate the said two companies:

Now these presents witness, that the said parties of the first and second parts, in consideration of the mutual execution of these presents, do hereby merge and consolidate the stock of their respective companies, and make one joint-stock company of their respective rail-roads, and do hereby consolidate their respective stock and property, and also their respective companies with each other, and do hereby unite their said two respective corporations, and constitute them into one corporation, to be called "The Michigan Southern and Northern Indiana Rail-Road Company;" and the said parties of the first and second parts, for the consideration aforesaid, do mutually agree and declare that the name of the said consolidated company, by these presents formed, is and shall be "The Michigan Southern and Northern Indiana Rail-Road Company," by which name the same shall be a body corporate and politic, and shall have a common seal, and by which name the same shall contract and be contracted with, sue and be sued, implead and be impleaded with, and have all the powers, franchises, immunities, property and privileges now enjoyed by the said parties of the first part, or the said parties of the second part, or which either of the said respective companies of the said first and second parts have or had by virtue of their respective charters before the execution of these presents. And the said parties of the first and second parts, for the consideration aforesaid, do hereby mutually and respectively grant, bargain, sell, release, convey, assign, transfer and set over, unto the said consolidated company, "The Michigan Southern and Northern Indiana Rail-Road Company," all and singular their several and respective rail-roads, rail-road lands, stations, cars, locomotives, furniture, tools, machinery, fuel, timber, iron, stone and other materials, and all their several and respective bonds, bills, notes, demands, moneys and things in action, and all and singular their several and

respective estates, property and effects, real and personal, at law and in equity, wheresoever situated and howsoever held; and all and singular their several and respective franchises, privileges and immunities, and do declare the same henceforth to be the estates, property and effects, franchises, privileges and immunities of the said consolidated company, to all intents and purposes.

And the said parties of the first and second parts, for the consideration aforesaid, do hereby mutually and respectively agree, that all and singular the debts, liabilities and obligations whatsoever of the said parties of the first and second parts severally and respectively, shall be henceforth the proper debts, liabilities and obligations of the said consolidated company, to all intents and purposes.

And the said parties of the first and second parts, for the consideration aforesaid, do mutually agree and declare, that the said consolidation shall take effect, and the said consolidated company shall go into operation immediately on the due execution of these present articles, and that the board of directors of the said consolidated company shall carry said consolidation into effect by all necessary acts and things for that purpose.

That the number of directors of the said consolidated company shall be thirteen; that the names of the first directors of said united corporations are John B. Jervis, Edwin C. Litchfield, Charles Butler, John Stryker, Elisha C. Litchfield, Hugh White, John S. Barry, Ezekiel Morrison, John Wilkinson, Thomas Barron, Daniel B. St. John, Hamilton White and Edwin D. Morgan, who shall constitute the board of directors of the said consolidated company, until the first election of directors thereof shall be held. That said board of directors shall meet at Laporte, in the state of Indiana, on the twenty-sixth day of April, one thousand eight hundred and fifty-five, at two o'clock, P. M., for organization and the transaction of business; that the first election of directors of said consolidated company shall be held at Adrian, in the state

of Michigan, at ten o'clock in the forenoon, on the fourth Wednesday in April, one thousand eight hundred and fifty-five; that the annual election of directors of said consolidated company shall be held on the fourth Wednesday of April in each year, after the said first election; that the amount of capital of the said consolidated company shall be twelve millions of dollars, and the same shall be divided into one hundred and twenty thousand shares, of one hundred dollars each; that the stockholders of the said companies of the said parties of the first and second parts shal be and continue stockholders of the said consolidated company, in the same respective number of shares, and of the like respective kinds of stock, and upon the like terms and conditions respectively as they now are stockholders in either of the said present companies of the parties of the first and second parts, and that the stockholders of the said present companies of the said parties of the first and second parts shall have power to surrender their shares of stock in either of the present companies of the parties of the first and second parts, to the said consolidated company; and upon every such surrender, stock of the said consolidated company, in equal number and amount of shares and with the like conditions and stipulations, shall be issued to the stockholders respectively making such surrender, and such surrender may be made by returning the certificates of the stock so surrendered to the office of said consolidated company, to be cancelled, and that the stockholders of the said consolidated company shall have all the rights and privileges as stockholders in the said consolidated company which they now have as stockholders in the present company whereof they now are stockholders; and that all the books of account, stock transfer books, notes and obligations for the payment of money, certificates of stock and powers to transfer or to vote upon stock in either of said companies, shall be deemed and taken to be books of account, stock transfer books, notes and obligations, certificates and powers to transfer and vote in said con-

solidated company, and may be, by said consolidated company, used, issued and re-issued, and shall be in all respects recognised and sanctioned as legal and valid, to the same extent and in like manner as they would have been legal and valid in either of said original companies, until otherwise ordered by the board of directors of said consolidated company, and the officers and agents of the company of the parties of the first part shall be the officers and agents of said consolidated company until others are appointed in their places by the board of directors of said consolidated company or by its authority; and that until the board of directors shall make or procure a common seal for the said consolidated company, the present corporate seal of the said parties of the first part shall be the common seal of the said consolidated company; and that the elections of directors of the said consolidated company shall be held under the direction of three stockholders thereof, not being directors at the time, appointed by the board of directors at a meeting previous, or chosen by the stockholders present at the election; that notice of the time and place of the election shall be given by advertisement; that in case an election shall not be held on the day appointed for the same, or shall otherwise fail of being an effectual election, the board of directors may cause such election to be held on another day, by them appointed, and upon like notice; and that all the rights, privileges and immunities, as well of the said parties of the first part as of the said parties of the second part, heretofore vested in or exercised by their respective boards of directors or their respective officers, shall be henceforth vested in and exercised by the board of directors or officers of the said consolidated company respectively, for the benefit of the said consolidated company; and that all the deeds, bonds, contracts and other acts and writings of either the said parties of the first part or of the said parties of the second part, shall be and continue the proper deeds, bonds, contracts and other acts and writings respectively of the said consolidated company,

without any surrender or change thereof; and that all future subscriptions to the capital stock shall be made, and all issues of new stock upon such subscriptions shall be made as shall be directed by the said board of directors of the said consolidated company.

In witness whereof, the said parties of the first and second parts have caused these presents to be made and executed under their respective common seals, and to be evidenced as well by the signature of the president as by the corporate seal of each of the said companies of the said parties of the first and second parts, the day and year first above written.

JOHN B. JERVIS, *President.* [L. S.]

JOHN B. JERVIS, *President.* [L. S.]

Sealed and delivered in
presence of

ELISHA C. LITCHFIELD,
Secretary, pro tem.